



April 6, 2007

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## ENGROSSED SENATE BILL No. 329

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DIGEST OF SB 329 (Updated March 28, 2007 3:56 pm - DI 69)

**Citations Affected:** IC 4-31; IC 4-33; IC 9-25; IC 14-11; IC 25-1; IC 27-1; IC 27-10; IC 29-3; IC 31-9; IC 31-14; IC 31-16; IC 31-17; IC 31-21; IC 31-25; IC 33-37; IC 34-26; IC 34-30.

**Synopsis:** Child support and child custody. Requires: (1) a court that orders, modifies, or enforces a child support order in a Title IV-D case to issue an immediate income withholding of an obligor's income; and (2) the bureau of child support to prescribe standard income withholding order and notice forms. Establishes: (1) requirements for implementation of an income withholding order; (2) amounts to be withheld under certain income withholding orders; (3) notice requirements concerning income withholding orders; and (4) income withholding requirements for income payors. Provides that: (1) a court may stay implementation of an income withholding order if certain requirements are met; (2) if a court does not issue an income withholding order, a Title IV-D agency may issue an income withholding order; (3) a Title IV-D agency may lift a stay of implementation of an income withholding order if certain conditions are met; (4) an obligor or obligee may file a petition to lift a stay; (5) an income payor who fails to comply with an income withholding order  
(Continued next page)

**Effective:** July 1, 2007; January 1, 2008.

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**Lawson C, Simpson, Broden**

(HOUSE SPONSORS — WELCH, BELL, DEMBOWSKI)

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January 11, 2007, read first time and referred to Committee on Judiciary.  
February 22, 2007, amended, reported favorably — Do Pass.  
February 26, 2007, read second time, ordered engrossed. Engrossed.  
February 27, 2007, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

March 6, 2007, read first time and referred to Committee on Courts and Criminal Code.  
April 5, 2007, amended, reported — Do Pass.

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ES 329—LS 6916/DI 110+



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is liable under certain circumstances; and (6) a Title IV-D agency or its agent is not subject to civil liability for income withheld and paid in accordance with an income withholding order. Provides that an income payor that discharges from employment, refuses to employ, takes disciplinary action, or otherwise discriminates against an obligor because of an income withholding order is subject to a penalty not to exceed \$5,000. Requires a: (1) Title IV-D agency that collects at least \$500 of child support for an individual who has never received Title IV-A assistance to charge an annual fee, which must be collected from child support payments, the parent who owes child support, or state funds appropriated for the purpose of paying the fee; and (2) child support order to include an order for medical support to be provided by either or both parents. Changes the annual child support fee from \$30 to \$55. Permits a Title IV-D agency to increase the weekly amount withheld from an obligor subject to an income withholding order who is in arrears. Repeals and replaces provisions concerning the issuance and activation of income withholding orders. Repeals the Uniform Child Custody Jurisdiction Law and replaces it with the Uniform Child Custody Jurisdiction Act. Establishes a uniform process to enforce interstate child custody and visitation determinations, and harmonizes the law with respect to simultaneous proceedings and inconvenient forums. Repeals other statutes concerning the Uniform Child Custody Jurisdiction Law. Makes other changes and conforming amendments.

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April 6, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 329

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 4-31-6-11, AS AMENDED BY P.L.145-2006,  
2       SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2007]: Sec. 11. (a) Upon receiving an order from the bureau  
4       (Title IV-D agency) under IC 31-25-4-32(h), the commission shall send  
5       to the person who is the subject of the order a notice that does the  
6       following:  
7               (1) States that the person is delinquent and is subject to an order  
8               placing the person on probationary status.  
9               (2) Explains that unless the person contacts the bureau and:  
10              (A) pays the person's child support arrearage in full;  
11              (B) ~~requests the activation of an income withholding order~~  
12              ~~under IC 31-16-15-2~~ and establishes a payment plan with the  
13              bureau to pay the arrearage, **which must include an income**  
14              **withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;**  
15              or

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(C) requests a hearing under IC 31-25-4-33;  
 within twenty (20) days after the date the notice is mailed, the  
 commission shall place the person on probationary status with  
 respect to any license issued to the person under this chapter.

(3) Explains that the person may contest the bureau's  
 determination that the person is delinquent and subject to an order  
 placing the person on probationary status by making written  
 application to the bureau within twenty (20) days after the date  
 the notice is mailed.

(4) Explains that the only basis for contesting the bureau's  
 determination that the person is delinquent and subject to an order  
 placing the person on probationary status is a mistake of fact.

(5) Explains the procedures to:

(A) pay the person's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the  
 arrearage, **which must include an income withholding order  
 under IC 31-16-15-2 or IC 31-16-15-2.5; and**

~~(C)~~ request the activation of an income withholding order  
 under ~~IC 31-16-15-2~~; and

~~(D)~~ (C) request a hearing under IC 31-25-4-33.

(6) Explains that the probation will terminate ten (10) business  
 days after the commission receives a notice from the bureau that  
 the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the  
 arrearage, **and requested the activation of which includes an  
 income withholding order under IC 31-16-15-2 or  
 IC 31-16-15-2.5.**

(b) Upon receiving an order from the bureau (Title IV-D agency)  
 under IC 31-25-4-34(c), the commission shall send to the person who  
 is the subject of the order a notice that states the following:

(1) That a license issued to the person under this chapter has been  
 placed on probationary status, beginning five (5) business days  
 after the date the notice is mailed, and that the probation will  
 terminate ten (10) business days after the commission receives a  
 notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the  
 arrearage, **and requested the activation of which includes an  
 income withholding order under IC 31-16-15-2 or  
 IC 31-16-15-2.5.**

(2) That if the commission is advised by the bureau that the

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person whose license has been placed on probationary status has failed to:

- (A) pay the person's child support arrearage in full; or
- (B) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the date the notice is mailed, the commission shall suspend the person's license.

(c) If a person whose license has been placed on probationary status fails to:

- (1) pay the person's child support arrearage in full; or
- (2) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the notice required under subsection (b) is mailed, the commission shall suspend the person's license.

(d) The commission may not reinstate a license placed on probation or suspended under this section until the commission receives a notice from the bureau that the person has:

- (1) paid the person's child support arrearage in full; or
- (2) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of~~ **which includes** an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

SECTION 2. IC 4-33-8.5-3, AS AMENDED BY P.L.145-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-32(h), the commission shall send to the person who is the subject of the order a notice that does the following:

- (1) States that the person is delinquent and is subject to an order placing the person on probationary status.
  - (2) Explains that unless the person contacts the bureau and:
    - (A) pays the person's child support arrearage in full;
    - (B) ~~requests the activation of an income withholding order under IC 31-16-15-2~~ **and** establishes a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;**
    - or
    - (C) requests a hearing under IC 31-25-4-33;
- within twenty (20) days after the date the notice is mailed, the

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commission shall place the person on probationary status with respect to any license issued to the person under this chapter.

(3) Explains that the person may contest the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status by making written application to the bureau within twenty (20) days after the date the notice is mailed.

(4) Explains that the only basis for contesting the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status is a mistake of fact.

(5) Explains the procedures to:

(A) pay the person's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; and**

~~(C) request the activation of an income withholding order under IC 31-16-15-2; and~~

~~(D)~~ (C) request a hearing under IC 31-25-4-33.

(6) Explains that the probation will terminate ten (10) business days after the commission receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, **and requested the activation of which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.**

(b) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-34(c), the commission shall send to the person who is the subject of the order a notice that states the following:

(1) That a license issued to the person under this article has been placed on probationary status, beginning five (5) business days after the date the notice is mailed, and that the probation will terminate ten (10) business days after the commission receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, **and requested the activation of which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.**

(2) That if the commission is advised by the bureau that the person whose license has been placed on probationary status has failed to:

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(A) pay the person's child support arrearage in full; or  
 (B) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of which includes~~ an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the date the notice is mailed, the commission shall suspend the person's license.

(c) If a person whose license has been placed on probationary status fails to:

(1) pay the person's child support arrearage in full; or  
 (2) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of which includes~~ an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the notice required under subsection (b) is mailed, the commission shall suspend the person's license.

(d) The commission may not reinstate a license placed on probation or suspended under this section until the commission receives a notice from the bureau that the person has:

(1) paid the person's child support arrearage in full; or  
 (2) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of which includes~~ an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

SECTION 3. IC 9-25-6-20, AS AMENDED BY P.L.145-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) If the bureau is advised by the Title IV-D agency that the obligor (as defined in IC 31-25-4-4) either requested a hearing under IC 31-25-4-33 and failed to appear or appeared and was found to be delinquent, the bureau shall promptly mail a notice to the obligor stating the following:

(1) That the obligor's driving privileges are suspended, beginning twenty (20) business days after the date the notice is mailed, and that the suspension will terminate after the bureau receives a notice from the Title IV-D agency that the obligor has:

(A) paid the obligor's child support arrearage in full; or  
 (B) established a payment plan with the Title IV-D agency to pay the arrearage, ~~and requested the activation of which includes~~ an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

(2) That the obligor may be granted a restricted driving permit under IC 9-24-15-6.7 if the obligor can prove that public transportation is unavailable for travel by the obligor:

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- (A) to and from the obligor's regular place of employment;
- (B) in the course of the obligor's regular employment;
- (C) to and from the obligor's place of worship; or
- (D) to participate in parenting time with the petitioner's children consistent with a court order granting parenting time.

(b) The bureau may not reinstate a driving license or permit suspended under this section until the bureau receives a notice from the Title IV-D agency that the obligor has:

- (1) paid the obligor's child support arrearage in full; or
- (2) established a payment plan with the Title IV-D agency to pay the arrearage, ~~and requested the activation of which includes~~ an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

(c) Unless an obligor whose driving license or permit is suspended under this section has been issued a restricted driving permit under IC 9-24-15 as a result of a suspension under this section, an obligor who operates a motor vehicle in violation of the section commits a Class A infraction.

SECTION 4. IC 14-11-3-4, AS AMENDED BY P.L.145-2006, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Upon receiving an order from the bureau under IC 31-25-4-32(j), the director shall send to the person who is the subject of the order a notice that does the following:

- (1) States that the person is delinquent and is subject to an order placing the person on probationary status.
- (2) Explains that unless the person contacts the bureau and:
  - (A) pays the person's child support arrearage in full;
  - (B) ~~requests the activation of an income withholding order under IC 31-16-15-2~~ and establishes a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;**

or

(C) requests a hearing under IC 31-25-4-33;

within twenty (20) days after the date the notice is mailed, the director shall place the person on probationary status with respect to any license issued to the person under IC 14-22-12, IC 14-22-14, IC 14-22-16, IC 14-22-17, IC 14-22-19, IC 14-24-7, or IC 14-31-3.

(3) Explains that the person may contest the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status by making written application to the bureau within twenty (20) days after the date

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the notice is mailed.

(4) Explains that the only basis for contesting the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status is a mistake of fact.

(5) Explains the procedures to:

(A) pay the person's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; and**

~~(C) request the activation of an income withholding order under IC 31-16-15-2; and~~

~~(D)~~ (C) request a hearing under IC 31-25-4-33.

(6) Explains that the probation will terminate ten (10) business days after the director receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, **and requested the activation of which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.**

(b) Upon receiving an order from the bureau under IC 31-25-4-34(e), the director shall send to the person who is the subject of the order a notice that states the following:

(1) That a license issued to the person under IC 14-22-12, IC 14-22-14, IC 14-22-16, IC 14-22-17, IC 14-22-19, IC 14-24-7, or IC 14-31-3 has been placed on probationary status, beginning five (5) business days after the date the notice is mailed, and that the probation will terminate ten (10) business days after the director receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, **and requested the activation of which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.**

(2) That if the director is advised by the bureau that the person whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage, **and request the activation of which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;**

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within twenty (20) days after the date the notice is mailed, the director shall suspend the person's license.

(c) If a person whose license has been placed on probationary status fails to:

- (1) pay the person's child support arrearage in full; or
- (2) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of which includes~~ an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the notice required under subsection (b) is mailed, the director shall suspend the person's license.

(d) The director may not reinstate a license placed on probation or suspended under this section until the director receives a notice from the bureau that the person has:

- (1) paid the person's child support arrearage in full; or
- (2) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of which includes~~ an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

SECTION 5. IC 25-1-1.2-8, AS AMENDED BY P.L.145-2006, SECTION 158, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The board shall, upon receiving an order from the bureau under IC 31-25-4-32(e), send a notice to the practitioner identified by the bureau that includes the following:

- (1) Specifies that the practitioner is delinquent and is subject to an order placing the practitioner on probationary status.
- (2) Describes the amount of child support that the practitioner is in arrears.
- (3) Explains that unless the practitioner contacts the bureau and:
  - (A) pays the practitioner's child support arrearage in full;
  - (B) ~~requests the activation of an income withholding order under IC 31-16-15-2 and~~ establishes a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;**
  - or
  - (C) requests a hearing under IC 31-25-4-33;

within twenty (20) days after the date the notice is mailed, the board shall place the practitioner on probationary status.

- (4) Explains that the practitioner may contest the bureau's determination that the practitioner is delinquent and subject to an order placing the practitioner on probationary status by making written application to the bureau within twenty (20) days after the

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date the notice is mailed.

(5) Explains that the only basis for contesting the bureau's determination that the practitioner is delinquent and subject to an order placing the practitioner on probationary status is a mistake of fact.

(6) Explains the procedures to:

(A) pay the practitioner's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; and**

~~(C)~~ request the activation of an income withholding order ~~under IC 31-16-15-2; and~~

~~(D)~~ (C) request a hearing under IC 31-25-4-33.

(7) Explains that the probation will terminate ten (10) business days after the board receives a notice from the bureau that the practitioner has:

(A) paid the practitioner's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, **and requested the activation of which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.**

(b) If the board is advised by the bureau that the practitioner either requested a hearing and failed to appear or appeared and was found to be delinquent, the board shall promptly mail a notice to the practitioner who is the subject of the order stating the following:

(1) That the practitioner's license has been placed on probationary status, beginning five (5) business days after the date the notice is mailed, and that the probation will terminate ten (10) business days after the board receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, **and requested the activation of which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.**

(2) That if the board is advised by the bureau that the practitioner whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage, **and request the activation of which includes an income withholding order under IC 31-16-15-2 or**

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**IC 31-16-15-2.5;**

within twenty (20) days after the date the notice is mailed, the board shall suspend the practitioner's license.

(c) If the board is advised by the bureau that the practitioner whose license has been placed on probationary status has failed to:

- (1) pay the person's child support arrearage in full; or
- (2) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of which includes~~ an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the date the notice is mailed, the board shall suspend the practitioner's license.

(d) The board may not reinstate a license or permit placed on probation or suspended under this section until the board receives a notice from the bureau that the person has:

- (1) paid the person's child support arrearage in full; or
- (2) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of which includes~~ an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

SECTION 6. IC 27-1-15.6-29, AS AMENDED BY P.L.145-2006, SECTION 164, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 29. (a) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-32(i), the commissioner shall send to the person who is the subject of the order a notice that does the following:

- (1) States that the person is delinquent and is subject to an order placing the person on probationary status.
- (2) Explains that unless the person contacts the bureau and:
  - (A) pays the person's child support arrearage in full;
  - (B) ~~requests the activation of an income withholding order under IC 31-16-15-2~~ and establishes a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;**
  - or
  - (C) requests a hearing under IC 31-25-4-33;

within twenty (20) days after the date the notice is mailed, the commissioner shall place the person on probationary status with respect to a license issued to the person under this chapter.

(3) Explains that the person may contest the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status by making written application to the bureau within twenty (20) days after the date

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the notice is mailed.

(4) Explains that the only basis for contesting the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status is a mistake of fact.

(5) Explains the procedures to:

(A) pay the person's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; and**

~~(C) request the activation of an income withholding order under IC 31-16-15-2; and~~

~~(D)~~ (C) request a hearing under IC 31-25-4-33.

(6) Explains that the probation will terminate ten (10) business days after the commissioner receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, **and requested the activation of which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.**

(b) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-34(d), the commissioner shall send a notice to the person who is the subject of the order stating the following:

(1) That a license issued to the person under this chapter has been placed on probationary status, beginning five (5) business days after the date the notice was mailed, and that the probation will terminate ten (10) business days after the commissioner receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, **and requested the activation of which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.**

(2) That if the commissioner is advised by the bureau that the person whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage, **and request the activation of which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;**

within twenty (20) days after the date the notice is mailed, the

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commissioner shall suspend the person's license.

(c) If the commissioner receives a notice by the bureau (Title IV-D agency) under IC 31-25-4-32(i) that the person whose license has been placed on probationary status has failed to:

(1) pay the person's child support arrearage in full; or

(2) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of which includes~~ an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;**

within twenty (20) days after the notice required under subsection (b) is mailed, the commissioner shall suspend the person's license.

(d) The commissioner may not reinstate any license placed on probation or suspended under this section until the commissioner receives a notice from the bureau that the person has:

(1) paid the person's child support arrearage in full; or

(2) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of which includes~~ an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5.**

SECTION 7. IC 27-10-3-20, AS AMENDED BY P.L.145-2006, SECTION 167, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-32(i), the commissioner shall send to the person who is the subject of the order a notice that does the following:

(1) States that the person is delinquent and is subject to an order placing the person on probationary status.

(2) Explains that unless the person contacts the bureau and:

(A) pays the person's child support arrearage in full;

(B) ~~requests the activation of an income withholding order under IC 31-16-15-2 and~~ establishes a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;**  
or

(C) requests a hearing under IC 31-25-4-33;

within twenty (20) days after the date the notice is mailed, the commissioner shall place the person on probationary status with respect to any license issued to the person under this chapter.

(3) Explains that the person may contest the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status by making written application to the bureau within twenty (20) days after the date the notice is mailed.

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(4) Explains that the only basis for contesting the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status is a mistake of fact.

(5) Explains the procedures to:

(A) pay the person's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage, **which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; and**

~~(C)~~ request the activation of an income withholding order under ~~IC 31-16-15-2; and~~

~~(D)~~ (C) request a hearing under IC 31-25-4-33.

(6) Explains that the probation will terminate ten (10) business days after the commissioner receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, **and requested the activation of which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.**

(b) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-34(d), the commissioner shall send to the person who is the subject of the order a notice that states the following:

(1) That a license issued to the person under this chapter has been placed on probationary status, beginning five (5) business days after the date the notice is mailed, and that the probation will terminate ten (10) business days after the commissioner receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, **and requested the activation of which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.**

(2) That if the commissioner is advised by the bureau that the person whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage, **and request the activation of which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;**

within twenty (20) days after the date the notice is mailed, the commissioner shall suspend the person's license.

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(c) If the commissioner receives a notice from the bureau (Title IV-D agency) under IC 31-25-4-32(i) that the person whose license has been placed on probationary status has failed to:

- (1) pay the person's child support arrearage in full; or
  - (2) establish a payment plan with the bureau to pay the arrearage, ~~and request the activation of which includes~~ an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5**;
- within twenty (20) days after the notice required under subsection (b) is mailed, the commissioner shall suspend the person's license.

(d) The commissioner may not reinstate any license placed on probation or suspended under this section until the commissioner receives a notice from the bureau that the person has:

- (1) paid the person's child support arrearage in full; or
- (2) established a payment plan with the bureau to pay the arrearage, ~~and requested the activation of which includes~~ an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5**.

SECTION 8. IC 29-3-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) This article applies to the following:

- (1) The business affairs, physical person, and property of every incapacitated person and minor residing in Indiana.
- (2) Property located in Indiana of every incapacitated person and minor residing outside Indiana.
- (3) Property of every incapacitated person or minor, regardless of where the property is located, coming into the control of a fiduciary who is subject to the laws of Indiana.

(b) Except as provided in subsections (c) through (e), the court has exclusive original jurisdiction over all matters concerning the following:

- (1) Guardians.
- (2) Protective proceedings under IC 29-3-4.

(c) A juvenile court has exclusive original jurisdiction over matters relating to the following:

- (1) Minors described in IC 31-30-1-1.
- (2) Matters related to guardians of the person and guardianships of the person described in IC 31-30-1-1(10).

(d) Except as provided in subsection (c), courts with child custody jurisdiction under:

- (1) IC 31-14-10;
- (2) IC 31-17-2-1; or
- (3) **IC 31-21-5 (or IC 31-17-3-3 before its repeal)**;

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1 have original and continuing jurisdiction over custody matters relating  
2 to minors.

3 (e) A mental health division of a superior court under IC 33-33-49  
4 has jurisdiction concurrent with the court in mental health proceedings  
5 under IC 12-26 relating to guardianship and protective orders.

6 (f) Jurisdiction under this section is not dependent on issuance or  
7 service of summons.

8 SECTION 9. IC 31-9-1-2 IS AMENDED TO READ AS FOLLOWS  
9 [EFFECTIVE JULY 1, 2007]: Sec. 2. Except as otherwise provided, the  
10 definitions in this article do not apply to the following:

11 (1) IC 31-11-3.

12 (2) **IC 31-21 (or IC 31-17-3 before its repeal).**

13 (3) IC 31-18.

14 (4) IC 31-19-29.

15 (5) IC 31-37-23.

16 SECTION 10. IC 31-9-2-0.3 IS ADDED TO THE INDIANA CODE  
17 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
18 1, 2007]: **Sec. 0.3. "Abandoned", for purposes of the Uniform Child**  
19 **Custody Jurisdiction Act under IC 31-21, has the meaning set forth**  
20 **in IC 31-21-2-2.**

21 SECTION 11. IC 31-9-2-10.8, AS ADDED BY P.L.145-2006,  
22 SECTION 176, IS AMENDED TO READ AS FOLLOWS  
23 [EFFECTIVE JULY 1, 2007]: Sec. 10.8. "Bureau", for purposes of  
24 **IC 31-16-15 and IC 31-25** has the meaning set forth in IC 31-25-4-1.

25 SECTION 12. IC 31-9-2-13, AS AMENDED BY P.L.145-2006,  
26 SECTION 177, IS AMENDED TO READ AS FOLLOWS  
27 [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) "Child", for purposes of  
28 IC 31-15, IC 31-16 (excluding IC 31-16-12.5), and IC 31-17, means a  
29 child or children of both parties to the marriage. The term includes the  
30 following:

31 (1) Children born out of wedlock to the parties.

32 (2) Children born or adopted during the marriage of the parties.

33 (b) "Child", for purposes of the Uniform Interstate Family Support  
34 Act under IC 31-18, has the meaning set forth in IC 31-18-1-2.

35 (c) "Child", for purposes of IC 31-19-5, includes an unborn child.

36 (d) "Child", for purposes of the juvenile law, means:

37 (1) a person who is less than eighteen (18) years of age;

38 (2) a person:

39 (A) who is eighteen (18), nineteen (19), or twenty (20) years  
40 of age; and

41 (B) who either:

42 (i) is charged with a delinquent act committed before the

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person's eighteenth birthday; or

(ii) has been adjudicated a child in need of services before the person's eighteenth birthday; or

(3) a person:

(A) who is alleged to have committed an act that would have been murder if committed by an adult; and

(B) who was less than eighteen (18) years of age at the time of the alleged act.

(e) "Child", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

(f) "Child", for purposes of IC 31-16-12.5, means an individual to whom child support is owed under:

(1) a child support order issued under IC 31-14-10 or IC 31-16-6; or

(2) any other child support order that is enforceable under IC 31-16-12.5.

(g) "Child", for purposes of IC 31-33-24, has the meaning set forth in IC 31-33-24-1.

(h) "Child", for purposes of IC 31-33-25, has the meaning set forth in IC 31-33-25-1.

(i) "Child", for purposes of IC 31-27, means an individual who is less than eighteen (18) years of age.

**(j) "Child", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-3.**

SECTION 13. IC 31-9-2-16.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 16.8. "Child custody determination", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-4.**

SECTION 14. IC 31-9-2-16.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 16.9. "Child custody proceeding", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-5.**

SECTION 15. IC 31-9-2-20.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 20.5. "Commencement", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-6.**

SECTION 16. IC 31-9-2-27, AS AMENDED BY P.L.145-2006,

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SECTION 185, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) "Court", for purposes of IC 31-15, IC 31-16, and IC 31-17, means the circuit, superior, or other courts of Indiana upon which jurisdiction to enter dissolution decrees has been or may be conferred.

(b) "Court", for purposes of IC 31-16-15, refers to the court having jurisdiction over child support orders.

(c) "Court", for purposes of IC 31-37-23, has the meaning set forth in IC 31-37-23-3.

(d) "Court", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

(e) "Court", for purposes of IC 31-27, means a circuit or superior court.

**(f) "Court", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-7.**

SECTION 17. IC 31-9-2-53 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 53. (a) "Home state", for purposes of the Uniform Child Custody Jurisdiction ~~Law~~ Act under ~~IC 31-17-3~~, **IC 31-21**, has the meaning set forth in ~~IC 31-17-3-2~~. **IC 31-21-2-8.**

(b) "Home state", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-5.

SECTION 18. IC 31-9-2-59.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 59.5. "Initial determination", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-9.**

SECTION 19. IC 31-9-2-64.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 64.5. "Issuing court", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-10.**

SECTION 20. IC 31-9-2-65 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 65. **(a) "Issuing state",** for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-11.

**(b) "Issuing state", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-11.**

SECTION 21. IC 31-9-2-80.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2007]: **Sec. 80.8. "Modification", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-12.**

SECTION 22. IC 31-9-2-85 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 85. (a) "Obligee", for purposes of **IC 31-16-15 and IC 31-16-16**, means a person who is entitled to receive a payment under a support order.

(b) "Obligee" or "petitioner", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-14.

SECTION 23. IC 31-9-2-89, AS AMENDED BY P.L.145-2006, SECTION 204, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 89. (a) "Person", for purposes of the juvenile law, means:

- (1) a human being;
- (2) a corporation;
- (3) a limited liability company;
- (4) a partnership;
- (5) an unincorporated association; or
- (6) a governmental entity.

(b) "Person", for purposes of section 44.5 of this chapter, means an adult or a minor.

(c) "Person", for purposes of IC 31-27, means an individual who is at least twenty-one (21) years of age, a corporation, a partnership, a voluntary association, or other entity.

**(d) "Person", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-13.**

SECTION 24. IC 31-9-2-90 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 90. "Person acting as a parent", for purposes of the Uniform Child Custody Jurisdiction ~~Law~~ Act under ~~IC 31-17-3~~, **IC 31-21**, has the meaning set forth in ~~IC 31-17-3-2~~. **IC 31-21-2-14.**

SECTION 25. IC 31-9-2-91 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 91. **(a)** "Petitioner" or "obligee", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-14.

**(b) "Petitioner", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-15.**

SECTION 26. IC 31-9-2-92 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 92. "Physical custody",

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for purposes of the Uniform Child Custody Jurisdiction ~~Law Act~~ under ~~IC 31-17-3~~, **IC 31-21**, has the meaning set forth in ~~IC 31-17-3-2~~. **IC 31-21-2-16.**

SECTION 27. IC 31-9-2-102.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 102.7. "Record", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-17.**

SECTION 28. IC 31-9-2-110 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 110. (a) "Respondent" or "obligor", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-15.

(b) **"Respondent", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-18.**

SECTION 29. IC 31-9-2-119 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 119. (a) "State", for purposes of the Uniform Child Custody Jurisdiction ~~Law Act~~ under ~~IC 31-17-3~~, **IC 31-21**, has the meaning set forth in ~~IC 31-17-3-2~~. **IC 31-21-2-19.**

(b) "State", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-21.

(c) "State", for purposes of the Interstate Compact on Adoption Assistance under IC 31-19-29, has the meaning set forth in IC 31-19-29-2.

(d) "State", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

SECTION 30. IC 31-9-2-125 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 125. (a) "Support order", for purposes of **IC 31-16-15 and** IC 31-16-16, means any judgment, decree, or order of child support, **including medical support**, issued by a court, in Indiana or another state, that has jurisdiction over the support order. The term includes orders issued under IC 31-14 through IC 31-17.

(b) "Support order", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-24.

SECTION 31. IC 31-9-2-130.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 130.2. "Title IV-D case", for purposes of IC 31-16-15, means a case arising under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669).**

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SECTION 32. IC 31-9-2-130.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 130.5. "Tribe", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-20.**

SECTION 33. IC 31-9-2-135, AS ADDED BY P.L.145-2006, SECTION 218, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 135. **(a) "Warrant", for purposes of IC 31-25-3, IC 31-25-4, IC 31-26-2, IC 31-26-3, IC 31-28-1, IC 31-28-2, and IC 31-28-3, means an instrument that is:**

- (1) the equivalent of a money payment; and
- (2) immediately convertible into cash by the payee for the full face amount of the instrument.

**(b) "Warrant", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-21.**

SECTION 34. IC 31-14-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. Upon application for enforcement of a support order, the court may:

- (1) enforce a judgment created under IC 31-16-16-2 (or IC 31-2-11-8 before its repeal) for the unpaid amount;
- (2) issue an income withholding order as provided in ~~IC 31-16-15-1~~; **IC 31-16-15-0.5**; or
- (3) ~~activate~~ **implement** an existing income withholding order as provided in ~~IC 31-16-15-5 or IC 31-16-15-6~~; **IC 31-16-15-2**.

SECTION 35. IC 31-14-12-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. Notwithstanding section 4, 5, 6, or 7 of this chapter, the court may stay issuance of an order under section 4, 5, 6, or 7 of this chapter (or IC 31-6-6.1-16(j), IC 31-6-6.1-16(k), IC 31-6-6.1-16(l), or IC 31-6-6.1-16(m) before the repeal of IC 31-6-6.1-16) if:

- (1) the person pays the child support arrearage in full; or
- (2) an income withholding order under IC 31-16-15 (or IC 31-2-10 before its repeal) is ~~activated~~ **implemented** and a payment plan to pay the arrearage is established.

SECTION 36. IC 31-16-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A child support order ~~may also~~ **must** include ~~where appropriate, basic health and hospitalization insurance coverage for the child; an order for medical support to be provided by either or both parents.~~

~~(b) If, however, the Title IV-D agency initiates action to establish a support obligation and petitions the court to include basic health and~~

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hospitalization insurance coverage in the support order; the court shall include a provision addressing insurance coverage for the child:

(c) In an action initiated by the Title IV-D agency or other parties; the court may order the parent who is ordered to pay child support to provide the insurance coverage for the child if the insurance coverage:

(1) is available to the parent ordered to pay child support or the dependents of the parent as part of the parent's employee benefit plan; or

(2) is available at reasonable cost to the parent ordered to pay child support.

(b) An order for medical support under this section shall be enforced under 42 U.S.C. 666(a)(19).

SECTION 37. IC 31-16-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Provisions of an order with respect to child support or an order for maintenance (ordered under IC 31-16-7-1 or IC 31-1-11.5-9(c) before its repeal) may be modified or revoked.

(b) Except as provided in section 2 of this chapter, modification may be made only:

(1) upon a showing of changed circumstances so substantial and continuing as to make the terms unreasonable; or

(2) upon a showing that:

(A) a party has been ordered to pay an amount in child support that differs by more than twenty percent (20%) from the amount that would be ordered by applying the child support guidelines; and

(B) the order requested to be modified or revoked was issued at least twelve (12) months before the petition requesting modification was filed.

(c) Modification under this section is subject to IC 31-25-4-17(a)(6).

SECTION 38. IC 31-16-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. Upon application to the court for enforcement of an order for support, the court may:

(1) enforce a judgment created under IC 31-16-16-2 (or IC 31-2-11-8 before its repeal) against the person obligated to pay support;

(2) issue an income withholding order as provided in ~~IC 31-16-15-1~~; IC 31-16-15-0.5; or

(3) ~~activate~~ implement an income withholding order as provided in ~~IC 31-16-15-5~~ or ~~IC 31-16-15-6~~; IC 31-16-15-2.

SECTION 39. IC 31-16-12-11 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. Notwithstanding section 7, 8, 9, or 10 of this chapter, the court may stay the issuance of an order under section 7, 8, 9, or 10 of this chapter (or IC 31-1-11.5-13(j), IC 31-1-11.5-13(k), IC 31-1-11.5-13(l), or IC 31-1-11.5-13(m) before the repeal of IC 31-1-11.5-13) if:

- (1) the person pays the child support arrearage in full; or
- (2) an income withholding order under IC 31-16-15 (or IC 31-2-10 before its repeal) is ~~activated~~ **implemented** and a payment plan to pay the arrearage is established.

SECTION 40. IC 31-16-15-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 0.5. (a) Except as provided in subsection (c), in any Title IV-D proceeding in which a court has ordered, modified, or enforced periodic payments of child support, the court shall order that child support payments be immediately withheld from the income of the obligor in an amount necessary to comply with the support order, including amounts for current child support obligations, child support arrearage, medical support, interest, and fees.

(b) Except as provided in subsection (c), a court or Title IV-D agency shall implement an order for immediate income withholding under subsection (a):

- (1) if the address of the obligor's income payor is known, not more than fifteen (15) calendar days after the date of the issuance of a support order; or
- (2) if the address of the obligor's income payor is not known, not more than fifteen (15) calendar days after the date the address of the obligor's income payor becomes known.

(c) A court may stay implementation of an income withholding order only if one (1) or more of the following occurs:

- (1) One (1) of the parties demonstrates and the court finds good cause not to order immediate income withholding by finding all of the following:
  - (A) A stay of implementation of the income withholding order is in the best interests of the child.
  - (B) The obligor has a history of substantially uninterrupted, full, and timely child support payments, other than payments made through an income withholding order or another mandatory process of previously ordered child support, during the previous twelve (12) months.
  - (C) The court issues a written finding that an income withholding order would cause an extraordinary hardship

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- 1 on the obligor.
- 2 (2) The parties submit a written agreement that:
- 3 (A) meets the requirements under subsection (d); and
- 4 (B) is approved by the court.
- 5 (d) A written agreement described in subsection (c)(2) must
- 6 meet the following requirements:
- 7 (1) Contain the following:
- 8 (A) A statement that an income withholding order is not
- 9 implemented immediately but that an income withholding
- 10 order will be implemented if the:
- 11 (i) obligor's child support and arrearage payments
- 12 become delinquent; or
- 13 (ii) obligor requests implementation of the income
- 14 withholding order.
- 15 (B) A detailed description of an alternative payment
- 16 arrangement between the parties to ensure the timely
- 17 payment of child support.
- 18 (2) Contain a provision that the obligor shall provide current
- 19 information to the court concerning the following:
- 20 (A) The name, address, and telephone number of the
- 21 obligor's place of employment.
- 22 (B) Any health coverage available to the obligor as a
- 23 benefit of employment or maintained by the obligor,
- 24 including information on the:
- 25 (i) name of the carrier (as defined in IC 27-8-10-1);
- 26 (ii) health insurance policy, certificate, or contract
- 27 number; and
- 28 (iii) if applicable, names and birthdates of the persons for
- 29 whose benefit the obligor maintains health coverage
- 30 under the health insurance policy, certificate, or
- 31 contract.
- 32 (e) If possible, the court shall specify the date on which a stay of
- 33 implementation of the income withholding order terminates
- 34 automatically.
- 35 (f) In Title IV-D cases in which periodic payments of child
- 36 support are ordered, modified, or enforced, the court shall order
- 37 the obligor to inform the Title IV-D agency of the:
- 38 (1) name and address of the obligor's current income payor;
- 39 (2) obligor's access to health insurance coverage; and
- 40 (3) if applicable, obligor's health insurance policy
- 41 information.
- 42 SECTION 41. IC 31-16-15-2 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. A court acting under section 1(d)(1) or 1(d)(2) of this chapter shall activate the immediate income withholding order under section 5 or 6 of this chapter shall lift a stay of implementation of an income withholding order granted under section 0.5(c) of this chapter upon occurrence of either one (1) or more of the following:

- (1) The obligor's support payment becomes delinquent.
- (2) The obligor requests that the withholding order become activated: implementation of the income withholding order.

SECTION 42. IC 31-16-15-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.5. (a) If, in a Title IV-D case, an income withholding order has not been issued with a support order under section 0.5 of this chapter, a Title IV-D agency may:

- (1) issue an income withholding order with the support order; and
- (2) after providing notice under section 3.5 of this chapter, implement the income withholding order unless the court:
  - (A) stays the implementation of the income withholding order under section 0.5(c) of this chapter; and
  - (B) provides a written finding of the stay in the support order.

(b) In a Title IV-D case in which the implementation of an income withholding order was stayed under section 0.5(c) of this chapter, the Title IV-D agency may:

- (1) after providing notice under section 3.5 of this chapter, lift the stay if the obligor's child support and arrearage payments are delinquent; or
- (2) lift the stay if the obligor requests implementation of the income withholding order.

(c) In a Title IV-D case, if:

- (1) an income withholding order was stayed under section 0.5(c) of this chapter; and
- (2) an obligor requests the implementation of the income withholding order;

the Title IV-D agency is not required to give notice under section 3.5 of this chapter before implementing the income withholding order.

(d) An income withholding order issued under subsection (a):

- (1) has the same force and effect; and
- (2) is enforceable in the same manner;

as an income withholding order issued by a court.

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(e) The total amount required to be withheld under an income withholding order implemented under this section is the sum of:

- (1) the obligor's current child support obligation; plus
- (2) the amount of arrearage payment ordered by the court; plus
- (3) an additional amount as determined under subsection (f) for:

- (A) any arrearage that has not been adjudicated, if no arrearage has been adjudicated previously; or

- (B) any additional arrearage that:

- (i) has not been adjudicated; and

- (ii) accrues since the last adjudication of arrearage by the court.

(f) If an obligor subject to an income withholding order is in arrears, unless otherwise ordered by a court, the Title IV-D agency or its agent may increase the weekly amount withheld as follows:

- (1) If the arrearages are at least five hundred dollars (\$500) and less than three thousand dollars (\$3,000), an additional amount of up to twenty dollars (\$20).

- (2) If the arrearages are at least three thousand dollars (\$3,000) and less than five thousand dollars (\$5,000), an additional amount of up to twenty-five dollars (\$25).

- (3) If the arrearages are at least five thousand dollars (\$5,000) and less than ten thousand dollars (\$10,000), an additional amount of up to thirty dollars (\$30).

- (4) If the arrearages are at least ten thousand dollars (\$10,000) and less than fifteen thousand dollars (\$15,000), an additional amount of up to thirty-five dollars (\$35).

- (5) If the arrearages are at least fifteen thousand dollars (\$15,000) and less than twenty thousand dollars (\$20,000), an additional amount of up to forty dollars (\$40).

- (6) If the arrearages are at least twenty thousand dollars (\$20,000) and less than twenty-five thousand dollars (\$25,000), an additional amount of up to forty-five dollars (\$45).

- (7) If the arrearages are at least twenty-five thousand dollars (\$25,000), an additional amount of up to fifty dollars (\$50).

(g) A court is not bound by and is not required to consider the additional amounts described in subsection (f) when ordering, modifying, or enforcing periodic payments of child support.

SECTION 43. IC 31-16-15-2.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.6. An income withholding order**

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1 issued under this chapter remains in effect until a child support  
 2 obligation, including current child support, child support  
 3 arrearage, medical support, interest, and fees, is paid in full.

4 SECTION 44. IC 31-16-15-2.7 IS ADDED TO THE INDIANA  
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 6 [EFFECTIVE JULY 1, 2007]: Sec. 2.7. (a) The bureau shall:

7 (1) prescribe standard forms for:

- 8 (A) an income withholding order; and
- 9 (B) a notice form; and

10 (2) make the forms listed in subdivision (1) available to:

- 11 (A) a court;
- 12 (B) a private attorney;
- 13 (C) an obligor; and
- 14 (D) an obligee.

15 (b) An income withholding order under this chapter must be  
 16 issued in a form substantially similar to the form prescribed under  
 17 subsection (a)(1)(A).

18 SECTION 45. IC 31-16-15-3.5 IS ADDED TO THE INDIANA  
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 20 [EFFECTIVE JULY 1, 2007]: Sec. 3.5. (a) Except as provided under  
 21 section 2.5(c) of this chapter, a Title IV-D agency shall issue a  
 22 notice of intent to withhold income to an obligor before the Title  
 23 IV-D agency implements an income withholding order under  
 24 section 2.5 of this chapter. The notice is sufficient for all future  
 25 income withholding until the child support obligation is fully  
 26 satisfied.

27 (b) The notice under subsection (a) must contain the following:

28 (1) A statement that an income withholding order will be sent  
 29 to all current and future income payors.

30 (2) If applicable, the amount of child support that the obligor  
 31 is in arrears.

32 (3) A statement that the income shall be:

- 33 (A) withheld by a current and future income payor from
- 34 the obligor's income for the payment of child support; and
- 35 (B) forwarded to the state central collection unit with a
- 36 statement identifying the:

- 37 (i) cause number for the obligee;
- 38 (ii) name of the obligor;
- 39 (iii) name of the obligee with the applicable income
- 40 withheld for each obligee forwarded from the income
- 41 payor;
- 42 (iv) Social Security number of each obligee; and

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- 1 (v) Indiana support enforcement tracking system
- 2 (ISETS) number for each obligee.
- 3 (4) A statement that the total amount of income to be withheld
- 4 by the Title IV-D agency under the income withholding order
- 5 is the sum of:
- 6 (A) the obligor's current child support obligation; plus
- 7 (B) the amount of any arrearage payment ordered by the
- 8 court; plus
- 9 (C) an additional amount as determined under section
- 10 2.5(f) of this chapter for:
- 11 (i) any arrearage that has not been adjudicated, if no
- 12 arrearage has been adjudicated previously; or
- 13 (ii) any additional arrearage that has not been
- 14 adjudicated and accrues since the last adjudication of
- 15 arrearage by the court; plus
- 16 (D) a fee of two dollars (\$2), which must be paid at the
- 17 income payor's option to the income payor each time the
- 18 income payor forwards income to the state central
- 19 collection unit.
- 20 (5) A statement that:
- 21 (A) the total amount withheld under the income
- 22 withholding order may not exceed the maximum amount
- 23 permitted under 15 U.S.C. 1673(b);
- 24 (B) the income withholding order applies to the receipt of
- 25 any current or subsequent income from a current or future
- 26 income payor;
- 27 (C) the obligor may contest the Title IV-D agency's
- 28 determination to implement an income withholding order
- 29 by making written application to the Title IV-D agency not
- 30 more than twenty (20) days after the date the notice under
- 31 this section is mailed to the obligor;
- 32 (D) the only basis for contesting the implementation of an
- 33 income withholding order is a mistake of fact;
- 34 (E) if the obligor contests the Title IV-D agency's
- 35 determination to implement the income withholding order,
- 36 the Title IV-D agency shall schedule an administrative
- 37 hearing;
- 38 (F) if the obligor does not contest the Title IV-D agency's
- 39 determination to implement an income withholding order
- 40 within the period of time required under section 4.3 of this
- 41 chapter, the Title IV-D agency shall implement the income
- 42 withholding order;

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1 (G) an income payor shall:

2 (i) begin withholding income not later than the first pay  
3 date after fourteen (14) days following the date the  
4 income withholding order is received by the income  
5 payor; and

6 (ii) report to the state central collection unit the date on  
7 which the income was withheld from the obligor's  
8 income;

9 (H) if an income payor is required to withhold income  
10 from more than one (1) obligor, the income payor may  
11 combine the withheld amount of income into a single  
12 payment for all obligors who are required to make  
13 payments to the state central collection unit if the income  
14 payor identifies the part of the single payment that is  
15 attributable to each individual obligor;

16 (I) if the obligor has:

17 (i) more than one (1) income withholding order against  
18 the obligor; and

19 (ii) insufficient disposable earnings to pay the amount of  
20 income withholding for all income withholding orders;  
21 an income payor shall distribute the withheld income pro  
22 rata among the persons entitled to receive income under  
23 the income withholding orders, giving priority to a current  
24 income withholding order;

25 (J) an income payor shall honor all withholdings to the  
26 extent that the total amount withheld does not exceed  
27 limits imposed under 15 U.S.C. 1673(b);

28 (K) the income withholding order is binding upon the  
29 income payor until further notice by the Title IV-D  
30 agency;

31 (L) an income payor that:

32 (i) discharges the obligor from employment;

33 (ii) refuses to employ the obligor;

34 (iii) takes disciplinary action against the obligor  
35 employed by the income payor; or

36 (iv) otherwise discriminates against the obligor;

37 because of the existence of an income withholding order or  
38 the obligations imposed upon the income payor by the  
39 income withholding order is subject to a penalty not to  
40 exceed five thousand dollars (\$5,000) payable to the state  
41 and recoverable in a civil action;

42 (M) if an income payor fails to withhold income in

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1 accordance with the income withholding order, the income  
2 payor is liable for:

3 (i) the accumulated amount the income payor should  
4 have withheld from the obligor's income; and

5 (ii) any interest, attorney's fees, and costs;

6 (N) an income withholding order under this chapter has  
7 priority over any secured or unsecured claim on income,  
8 except for claims for federal, state, and local taxes; and

9 (O) the income payor must notify the Title IV-D agency if  
10 the obligor:

11 (i) ceases employment with; or

12 (ii) no longer receives income from;

13 the income payor, not later than ten (10) days after the  
14 date the obligor's employment or income ceases, and  
15 provide the obligor's last known address and the name and  
16 address of the obligor's new income payor, if known, to the  
17 Title IV-D agency.

18 (c) If the Title IV-D agency issues a notice of intent to withhold  
19 income to the obligor under this section, the Title IV-D agency is  
20 not required to provide further notice to continue to implement or  
21 amend the income withholding order unless the income  
22 withholding order is stayed by the court under section 0.5(c) of this  
23 chapter.

24 SECTION 46. IC 31-16-15-4.3 IS ADDED TO THE INDIANA  
25 CODE AS A NEW SECTION TO READ AS FOLLOWS  
26 [EFFECTIVE JULY 1, 2007]: Sec. 4.3. (a) An obligor may contest a  
27 Title IV-D agency's determination to implement an income  
28 withholding order under section 2.5 of this chapter by making a  
29 written application to the Title IV-D agency not more than twenty  
30 (20) days after the date the notice is mailed to the obligor.

31 (b) The only basis on which an obligor may contest the  
32 implementation of an income withholding order under section 2.5  
33 of this chapter is mistake of fact.

34 (c) If an obligor does not contest the implementation of an  
35 income withholding order within the period described in subsection  
36 (a), the Title IV-D agency shall send the income withholding order  
37 to the income payor not more than fifteen (15) calendar days after:

38 (1) the last date that the obligor has to contest the  
39 implementation of an income withholding order under  
40 subsection (a); or

41 (2) if the income payor's address is not known on the date  
42 described under subdivision (1), the date the Title IV-D

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agency obtains the income payor's address.

(d) A Title IV-D agency shall:

(1) not more than twenty-five (25) days after an obligor makes written application to contest an income withholding order under subsection (a), hold a hearing to review the Title IV-D agency's determination to implement the income withholding order; and

(2) make a determination on the implementation of the income withholding order at the hearing.

(e) If the Title IV-D agency implements an income withholding order after a hearing under this section, the Title IV-D agency shall provide the income withholding order to each income payor as provided under section 6.5 of this chapter.

SECTION 47. IC 31-16-15-4.5, AS AMENDED BY P.L.145-2006, SECTION 239, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.5. (a) The ~~child support~~ bureau of the department shall send notice to an employer, using the National Medical Support Notice described in 45 CFR 303.3, that:

(1) a parent ordered to pay support has been ordered to provide insurance coverage as part of the parent's employee benefit plan under IC 31-16-6-4; or

(2) an obligation to provide insurance coverage under subdivision (1) is no longer in effect.

(b) Upon receipt of the notice under subsection (a), the employer shall:

(1) respond to the notice in a timely fashion; and

(2) abide by the terms of establishing insurance coverage as required by the notice.

SECTION 48. IC 31-16-15-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.5. (a) An obligor or an obligee may file a petition to lift a stay of implementation of an income withholding order.

(b) If an obligee files a petition under subsection (a), the court shall:

(1) set a date for a hearing on the petition; and

(2) send a written notice of the hearing to lift the stay of implementation of the income withholding order to the obligor in accordance with subsection (c).

The court must set a date for the hearing that is not more than twenty (20) days after the date the petition is filed.

(c) The notice under subsection (b)(2) must include the

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following:

(1) A statement as to whether the obligor is delinquent in the payment of child support.

(2) If applicable, the amount of child support the obligor is in arrears.

(3) A statement that if the petition is granted, the obligor's income shall be:

(A) withheld by the court for the payment of child support; and

(B) forwarded to the state central collection unit with a statement identifying:

(i) the cause number for each obligee;

(ii) the name of each obligor;

(iii) the name of each obligee with the amount of the withheld income forwarded by the income payor;

(iv) the Social Security number of each obligor; and

(v) the Indiana support enforcement tracking system (ISETS) number for each obligee.

(4) The following statements:

(A) That the total amount of income to be withheld under an income withholding order from the obligor's income is the sum of:

(i) the obligor's current child support obligation; plus

(ii) the amount of arrearage payment ordered by the court; plus

(iii) a fee of two dollars (\$2), which must be paid at the income payor's option to the income payor each time the income payor forwards income to the state central collection unit.

(B) That the total amount of income withheld may not exceed the maximum amount permitted by 15 U.S.C. 1673(b).

(C) That the income withholding order applies to the receipt of any current or subsequent income.

(D) That the only basis for contesting the petition to lift the stay of implementation of the income withholding order is a mistake of fact.

(E) That an obligor may contest the court's lifting the stay of the income withholding order by appearing at the hearing scheduled by the court on the petition to lift the stay.

(F) That if the obligor does not appear at the hearing, the

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1 court shall implement the income withholding order.

2 (G) That an income payor shall:

3 (i) begin withholding income not later than the first pay  
4 date after fourteen (14) days following the date the  
5 income withholding order is received by the income  
6 payor; and

7 (ii) report to the state central collection unit the date on  
8 which the income was withheld from the obligor's  
9 income.

10 (H) That if an income payor is required to withhold income  
11 from more than one (1) obligor, the income payor may  
12 combine the withheld amount of income into a single  
13 payment for all obligors who are required to make  
14 payments to the state central collection unit if the income  
15 payor identifies the part of the single payment that is  
16 attributable to each individual obligor.

17 (I) That if an obligor has:

18 (i) more than one (1) income withholding order against  
19 the obligor; and

20 (ii) insufficient disposable earnings to pay the amount of  
21 income withholding for all income withholding orders;  
22 the income payor shall distribute the withheld income pro  
23 rata among the persons entitled to receive income under  
24 the income withholding orders, giving priority to a current  
25 income withholding order.

26 (J) That an income payor shall honor all withholding to the  
27 extent that the total amount withheld does not exceed  
28 limits imposed under 15 U.S.C. 1673(b).

29 (K) That the income withholding is binding upon the  
30 income payor until further notice by the court.

31 (L) That an income payor that:

32 (i) discharges the obligor from employment;

33 (ii) refuses to employ the obligor;

34 (iii) takes disciplinary action against the obligor  
35 employed by the income payor; or

36 (iv) otherwise discriminates against the obligor;

37 because of the existence of an income withholding order or  
38 the obligations imposed upon the income payor by the  
39 income withholding order, is subject to a penalty not to  
40 exceed five thousand dollars (\$5,000) payable to the state  
41 and recoverable in a civil action.

42 (M) That if the income payor fails to withhold income in

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1 accordance with the income withholding order, the income  
2 payor is liable for:

- 3 (i) the accumulated amount the income payor should  
4 have withheld from the obligor's income; and  
5 (ii) any interest, attorney's fees, and costs.

6 (N) That an income withholding order under this chapter  
7 has priority over any secured or unsecured claim on  
8 income, except for claims for federal, state, and local taxes.

9 (O) That the income payor must notify the court if the  
10 obligor:

- 11 (i) ceases employment with; or  
12 (ii) no longer receives income from;

13 the income payor not later than ten (10) days after the date  
14 the obligor's employment or income ceases and provide the  
15 obligor's last known address and the name and address of  
16 the obligor's new income payor, if known, to the court.

17 (d) At a hearing under this section, the court shall grant the  
18 petition to lift the stay of implementation of the income withholding  
19 order if the obligor has failed to comply with the provisions of the  
20 support order, unless the court finds that the conditions under  
21 section 0.5(c)(2) of this chapter have been met.

22 (e) If the obligor files a petition to lift the stay of implementation  
23 of the income withholding order:

- 24 (1) a hearing is not required; and  
25 (2) the court shall grant the petition.

26 (f) If the court grants the petition to lift the stay of  
27 implementation of the income withholding order, the court shall:

- 28 (1) implement the income withholding order; and  
29 (2) send the income withholding order to the obligor's income  
30 payor.

31 SECTION 49. IC 31-16-15-6.5 IS ADDED TO THE INDIANA  
32 CODE AS A NEW SECTION TO READ AS FOLLOWS  
33 [EFFECTIVE JULY 1, 2007]: **Sec. 6.5. A court or Title IV-D agency**  
34 **may serve an income withholding order on an income payor by:**

- 35 (1) first class mail;  
36 (2) facsimile transmission; or  
37 (3) other electronic means approved by the Title IV-D agency.

38 SECTION 50. IC 31-16-15-7.5 IS ADDED TO THE INDIANA  
39 CODE AS A NEW SECTION TO READ AS FOLLOWS  
40 [EFFECTIVE JULY 1, 2007]: **Sec. 7.5. (a) An income payor that is**  
41 **required to withhold income under this chapter shall:**

- 42 (1) forward income withheld for the payment of current or

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past due child support as directed by an income withholding order to the state central collection unit at the time that an obligor is paid;

(2) include a statement that identifies the:

(A) cause number for each obligee;

(B) Indiana support enforcement tracking system (ISETS) case number for each obligee;

(C) name of each obligor and the obligor's Social Security number; and

(D) name of each obligee with the amount of the withheld income forwarded by the income payor; and

(3) begin withholding income not later than the first pay date after fourteen (14) days following the date the order for income withholding is received by the income payor.

(b) An income payor may retain, in addition to the amount of income forwarded to the state central collection unit, a fee of not more than two dollars (\$2) each time the income payor forwards income to the state central collection unit. If an income payor retains a fee under this subsection, the income payor shall reduce the amount of income withheld for the payment of current and past due child support, if necessary to avoid exceeding the maximum amount permitted to be withheld under 15 U.S.C. 1673(b).

SECTION 51. IC 31-16-15-16, AS AMENDED BY P.L.148-2006, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) Except as provided in subsection (b), if the income payor is required to withhold income from more than one (1) obligor under this chapter, the income payor may

(1) combine in a single payment the withheld amounts for all obligors who have been ordered to pay to the state central collection unit established by ~~IC 31-33-1.5-8~~ and **IC 31-25-3-1**

(2) if the income payor separately identifies the part of the single payment that is attributable to each individual obligor.

(b) If the income payor:

(1) is required to withhold income from more than one (1) obligor under this chapter; and

(2) employs more than fifty (50) employees;

the income payor shall make payments to the state central collection unit established by ~~IC 31-33-1.5-8~~ **IC 31-25-3-1** through electronic funds transfer or through electronic or Internet access made available by the state central collection unit.

(c) The department of child services shall assess a civil penalty of twenty-five dollars (\$25) per obligor per pay period against an income

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payor that:

- (1) is required to make a payment under subsection (b); and
- (2) does not make the payment through electronic funds transfer or other means described in subsection (b).

The department shall deposit the penalties into the state general fund.

SECTION 52. IC 31-16-15-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. If:

- (1) there is more than one (1) order for withholding against a single obligor under this chapter; and
- (2) the obligor has insufficient disposable earnings to pay the amount required by all the orders;

the income payor shall distribute the withheld earnings pro rata among the ~~entities~~ **persons** entitled to receive earnings under the orders and shall honor all withholdings to the extent that the total amount withheld does not exceed the limits imposed under 15 U.S.C. 1673(b).

SECTION 53. IC 31-16-15-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. The income payor shall:

- (1) notify:
  - (A) the Title IV-D agency in a case arising under section ~~3~~ or **2.5** of this chapter; or
  - (B) the court in a case arising under section ~~4~~ or **0.5, 2, or 5.5** of this chapter;

when the obligor ceases to receive income not later than ten (10) days after the employment or income ceases; and

- (2) provide:
  - (A) the obligor's last known address; and
  - (B) the name and address of the obligor's new income payor if known.

SECTION 54. IC 31-16-15-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) If an obligor:

- (1) is entitled to net income in the form of:
  - (A) severance pay;
  - (B) accumulated sick pay;
  - (C) vacation pay;
  - (D) accumulated commissions;
  - (E) a bonus payment **in addition to regular earned income**;
  - or
  - (F) other lump sum payment; and

(2) owes an amount of child support that is in arrears; the income payor shall withhold the amount in arrears or the product computed under subsection (b), whichever is less, up to the maximum

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permitted under 15 U.S.C. 1673(b).

(b) The income payor shall multiply:

(1) the amount of support the obligor is required to pay each week; by

(2) the number of weeks represented by the lump sum payment.

SECTION 55. IC 31-16-15-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. (a) An income withholding order under section ~~± 0.5 or 2.5~~ of this chapter (or IC 31-2-10-7 before its repeal) terminates when both of the following occur:

(1) The duty to support a child ceases under IC 31-14 or IC 31-16-2 through IC 31-16-12.

(2) No child support arrearage exists.

(b) ~~Activation of income withholding terminates A court or Title IV-D agency may terminate income withholding~~ when the whereabouts of the child and the child's custodial parent are unknown, preventing the forwarding of child support payments.

SECTION 56. IC 31-16-15-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) If an income payor fails to forward the money required by an income withholding order, ~~as set forth in the notice described in section 10 of this chapter;~~ **the Title IV-D agency shall send the income payor, by certified mail, a notice of failure to comply. If the income payor fails to forward the money required by an income withholding order within thirty (30) days after receipt of the notice of failure to comply,** the income payor is liable for the amount the income payor fails to forward.

(b) An income payor described in subsection (a) is liable to the:

(1) obligee for the amount of income not paid in compliance with the income withholding order, including an amount the obligor is required to pay for health insurance coverage; and

(2) obligor for:

(A) the amount of income withheld and not paid as required under the income withholding order;

(B) an amount equal to the interest that accrues according to the interest percentage that accrues on judgments; and

(C) reasonable attorney's fees and court costs.

(c) An income payor that:

(1) receives an income withholding order from a court or Title IV-D agency; and

(2) fails to comply with the income withholding order;

may be liable for contempt of court.

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(d) If an obligor has filed a claim for worker's compensation, the income payor of the obligor shall send a copy of the income withholding order to the income payor's insurance carrier if the income payor has an insurance carrier with whom the claim has been filed in order to continue the ordered withholding of income.

SECTION 57. IC 31-16-15-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 25. (a) If an obligor is:

- (1) discharged from employment;
- (2) refused employment; or
- (3) disciplined;

because the income payor is required to withhold income of the obligor under this chapter, the obligor is entitled to recover an amount of not less than one hundred dollars (\$100).

(b) The obligor may collect the money described in subsection (a) by filing a civil action against the income payor in a circuit or superior court:

(a) An income payor that:

- (1) discharges from employment an obligor;
- (2) refuses to employ an obligor;
- (3) takes disciplinary action against an obligor employed by the income payor; or
- (4) otherwise discriminates against an obligor;

because of the existence of an income withholding order or the obligations imposed upon the income payor by the income withholding order, is subject to a penalty not to exceed five thousand dollars (\$5,000) payable to the state and recoverable in a civil action. An obligor or the Title IV-D agency may bring an action to enforce a penalty under this subsection.

(b) The collection of money under this section does not affect:

- (1) the obligor's right to damages under IC 24-4.5-5-202; or
- (2) any other legal remedy available to the obligor;

because of discharge from employment, refusal of employment, or disciplinary action.

SECTION 58. IC 31-16-15-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. (a) If the Title IV-D agency or the court becomes aware that the obligor has a new income payor after income withholding has been activated under section 5 or 6 of this chapter, implemented:

- (1) if the order is an income withholding order implemented under section 2.5 of this chapter, the Title IV-D agency; in a case arising under section 5 of this chapter; or
- (2) if the order is an income withholding order implemented

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under section 0.5 of this chapter or an income withholding order implemented after a stay has been lifted under section 5.5 of this chapter, the court in a case arising under section 6 of this chapter; or the Title IV-D agency;

shall send a notice the income withholding order to the new income payor. that the withholding is binding on the new income payor.

(b) The notice sent under subsection (a) must comply with section 10 of this chapter.

SECTION 59. IC 31-16-15-29 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 29. (a) The registration of a foreign support order as provided in IC 31-18-6 is sufficient for the implementation of an income withholding order by the Title IV-D agency.**

**(b) The Title IV-D agency shall issue a notice in accordance with section 3.5 of this chapter of the implementation of a foreign support order to the obligor.**

SECTION 60. IC 31-16-15-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 30. A Title IV-D agency or an agent of a Title IV-D agency acting within the scope of the agent's employment is not subject to any civil liability for income withheld and paid to an obligee, the Title IV-D agency, or the state central collection unit in accordance with an income withholding order.**

SECTION 61. IC 31-17-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1. Jurisdiction of a child custody proceeding under:**

(1) this chapter, IC 31-17-4, IC 31-17-6, and IC 31-17-7; or

(2) **IC 31-21 (or IC 31-17-3 before its repeal);**

shall be determined under **IC 31-21 (or IC 31-17-3 before its repeal).**

SECTION 62. IC 31-17-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10. If the marriage of the child's parents has been dissolved in another state, the child's maternal or paternal grandparent may seek visitation rights if:**

(1) the custody decree entered in the action for dissolution of marriage does not bind the grandparent under **IC 31-21-3-1 (or IC 31-17-3-12 before its repeal);** and

(2) an Indiana court would have jurisdiction under **IC 31-21-5-1 (or IC 31-17-3-3 before its repeal), IC 31-21-5-2, or IC 31-21-5-3 (or IC 31-17-3-14 before its repeal)** to grant visitation rights to the grandparent in a modification decree.

SECTION 63. IC 31-21 IS ADDED TO THE INDIANA CODE AS

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A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

**ARTICLE 21. UNIFORM CHILD CUSTODY JURISDICTION ACT**

**Chapter 1. Applicability**

**Sec. 1. This article does not apply to:**

- (1) an adoption proceeding; or
- (2) a proceeding pertaining to the authorization of emergency medical care for a child.

**Sec. 2. (a)** A child custody proceeding pertaining to an Indian child, as defined in the Indian Child Welfare Act (25 U.S.C. 1901 et seq.), is not subject to this article to the extent that it is governed by the Indian Child Welfare Act.

**(b)** An Indiana court shall treat a tribe as if the tribe were a state of the United States for purposes of applying IC 31-21-3 through IC 31-21-5.

**(c)** A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this article must be recognized and enforced under IC 31-21-6.

**Sec. 3. (a)** An Indiana court shall treat a foreign country as if the foreign country were a state of the United States for purposes of applying IC 31-21-3 through IC 31-21-5.

**(b)** Except as otherwise provided in subsection (c), a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standard of this article must be recognized and enforced under IC 31-21-6.

**(c)** An Indiana court need not apply this article if the child custody law of a foreign country violates the fundamental principles of human rights.

**Chapter 2. Definitions**

**Sec. 1.** The definitions in this chapter apply throughout this article.

**Sec. 2. "Abandoned"** means left without provision for reasonable and necessary care or supervision.

**Sec. 3. "Child"** means a person who is less than eighteen (18) years of age.

**Sec. 4. (a) "Child custody determination"** means a judgment, decree, or other court order providing for:

- (1) legal custody;
- (2) physical custody; or

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(3) visitation;  
with respect to a child.

(b) The term does not include an order relating to child support or other monetary obligation of a person.

Sec. 5. (a) "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for:

- (1) dissolution of marriage or legal separation;
- (2) child abuse or neglect;
- (3) guardianship;
- (4) paternity;
- (5) termination of parental rights; and
- (6) protection from domestic violence;

in which the issue of child custody or visitation may appear.

(b) The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement of child custody under IC 31-21-6.

Sec. 6. "Commencement" means the filing of the first pleading in a proceeding.

Sec. 7. "Court" means an entity authorized by state law to establish, enforce, or modify a child custody determination.

Sec. 8. "Home state" means the state in which a child lived with:

- (1) a parent; or
- (2) a person acting as a parent;

for at least six (6) consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six (6) months of age, the term means the state in which the child lived since birth with a parent or person acting as a parent. A period of temporary absence of the parent or person acting as a parent is part of the period.

Sec. 9. "Initial determination" means the first child custody determination concerning a child.

Sec. 10. "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this article.

Sec. 11. "Issuing state" means the state in which a child custody determination is made.

Sec. 12. "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, regardless of whether the determination is made by the court that made the previous determination.

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1        **Sec. 13. "Person"** means an individual, a corporation, a business  
 2        trust, an estate, a trust, a partnership, a limited liability company,  
 3        an association, a joint venture, a government, a governmental  
 4        subdivision, an agency or instrumentality, a public corporation, or  
 5        any other legal or commercial entity.

6        **Sec. 14. "Person acting as a parent"** means a person, other than  
 7        a parent, who:

8            (1) has physical custody of the child or has had physical  
 9            custody for a period of at least six (6) consecutive months,  
 10          including a temporary absence, within one (1) year  
 11          immediately before the commencement of a child custody  
 12          proceeding; and

13          (2) has been awarded legal custody by a court or claims a  
 14          right to legal custody under Indiana law.

15        **Sec. 15. "Petitioner"** means a person who seeks enforcement of:

16            (1) an order for return of a child under the Hague Convention  
 17            on the Civil Aspects of International Child Abduction; or  
 18            (2) a child custody determination.

19        **Sec. 16. "Physical custody"** means the physical care and  
 20        supervision of a child.

21        **Sec. 17. "Record"** means information that is:

22            (1) inscribed on a tangible medium; or  
 23            (2) stored in an electronic or other medium;

24        and that is retrievable in a perceivable form.

25        **Sec. 18. "Respondent"** means a person against whom a  
 26        proceeding has been commenced for enforcement of:

27            (1) an order for return of a child under the Hague Convention  
 28            on the Civil Aspects of International Child Abduction; or  
 29            (2) a child custody determination.

30        **Sec. 19. "State"** means a state of the United States, the District  
 31        of Columbia, Puerto Rico, the United States Virgin Islands, or a  
 32        territory or an insular possession subject to the jurisdiction of the  
 33        United States.

34        **Sec. 20. "Tribe"** means an Indian tribe or band or Alaskan  
 35        Native village that is:

36            (1) recognized by federal law; or  
 37            (2) formally acknowledged by a state.

38        **Sec. 21. "Warrant"** means an order issued by a court  
 39        authorizing law enforcement officers to take physical custody of a  
 40        child.

### 41        **Chapter 3. Procedural Considerations**

42        **Sec. 1. A child custody determination made by an Indiana court**

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that has jurisdiction under this article binds each person who has:

- (1) been served with notice in accordance with Indiana law;
- (2) been notified in accordance with section 3 of this chapter;
- or
- (3) submitted to the jurisdiction of the court;

and who has been given an opportunity to be heard. A child custody determination described in this section is conclusive as to the decided issues of law and fact except to the extent the determination is modified.

Sec. 2. If a question of existence or exercise of jurisdiction under this article is raised in a child custody proceeding, the question, on a request of a party, must be given priority on the court's calendar and handled expeditiously.

Sec. 3. (a) Notice required for the exercise of jurisdiction when a person is outside Indiana may be given in a manner prescribed by:

- (1) Indiana law for service of process; or
- (2) the law of the state in which the service is made.

Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(b) Proof of service may be made in the manner prescribed by:

- (1) Indiana law; or
- (2) the law of the state in which the service is made.

(c) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

Sec. 4. A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in Indiana for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

Sec. 5. A person who is subject to personal jurisdiction in Indiana on a basis other than physical presence is not immune from service of process in Indiana. A person present in Indiana who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

Sec. 6. The immunity granted by section 4 of this chapter does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this article committed by an individual while present in Indiana.

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**Chapter 4. Communication and Cooperation Between Courts**

**Sec. 1. An Indiana court may communicate with a court in another state concerning a proceeding arising under this article.**

**Sec. 2. The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, the parties must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.**

**Sec. 3. Communication between courts regarding:**

- (1) schedules;**
- (2) calendars;**
- (3) court records; and**
- (4) similar matters;**

**may occur without informing the parties. A record need not be made of the communication.**

**Sec. 4. A record must be made of a communication under sections 1 and 2 of this chapter. The parties must be:**

- (1) promptly informed of the communication; and**
- (2) granted access to the record.**

**Sec. 5. In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in Indiana for testimony taken in another state. The court on its own motion may:**

- (1) order that the testimony of a person be taken in another state; and**
- (2) prescribe the manner in which and the terms on which the testimony is taken.**

**Sec. 6. An Indiana court may permit a person residing in another state to be deposed or to testify by:**

- (1) telephone;**
- (2) audiovisual means; or**
- (3) other electronic means;**

**before a designated court or another location in that state. An Indiana court shall cooperate with courts in other states in designating an appropriate location for the deposition or testimony.**

**Sec. 7. Documentary evidence transmitted from another state to an Indiana court by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.**

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1       **Sec. 8. An Indiana court may request the appropriate court of**  
 2 **another state to do the following:**

- 3       (1) **Hold an evidentiary hearing.**  
 4       (2) **Order a person to produce or give evidence under the**  
 5 **procedures of the other state.**  
 6       (3) **Order that an evaluation be made with respect to the**  
 7 **custody of a child involved in a pending proceeding.**  
 8       (4) **Forward to the Indiana court:**  
 9       (A) **a certified copy of the transcript of the record of the**  
 10 **hearing;**  
 11       (B) **the evidence otherwise presented; and**  
 12       (C) **an evaluation prepared in compliance with the request.**  
 13       (5) **Order:**  
 14       (A) **a party to a child custody proceeding; or**  
 15       (B) **any person having physical custody of the child;**  
 16 **to appear in the proceeding with or without the child.**

17       **Sec. 9. On the request of a court of another state, an Indiana**  
 18 **court may:**

- 19       (1) **hold a hearing; and**  
 20       (2) **enter an order described in section 8 of this chapter.**

21       **Sec. 10. Travel and other necessary and reasonable expenses**  
 22 **incurred under sections 8 and 9 of this chapter may be assessed**  
 23 **against the parties according to Indiana law.**

24       **Sec. 11. An Indiana court shall preserve the:**

- 25       (1) **pleadings;**  
 26       (2) **orders;**  
 27       (3) **decrees;**  
 28       (4) **records of hearings;**  
 29       (5) **evaluations; and**  
 30       (6) **other pertinent records;**

31 **with respect to a child custody proceeding until the child becomes**  
 32 **eighteen (18) years of age. On appropriate request by a court or**  
 33 **law enforcement official of another state, the Indiana court shall**  
 34 **forward a certified copy of the records to the court of the other**  
 35 **state.**

### 36       **Chapter 5. Jurisdiction**

37       **Sec. 1. (a) Except as otherwise provided in section 4 of this**  
 38 **chapter, an Indiana court has jurisdiction to make an initial child**  
 39 **custody determination only if one (1) of the following applies:**

- 40       (1) **Indiana is the home state of the child on the date of the**  
 41 **commencement of the proceeding or was the home state of the**  
 42 **child within six (6) months before the commencement of the**

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proceeding, and the child is absent from Indiana but a parent or person acting as a parent continues to live in Indiana.

(2) A court of another state does not have jurisdiction under subdivision (1) or a court of the home state of the child has declined to exercise jurisdiction on the ground that Indiana is the more appropriate forum under section 8 or 9 of this chapter and:

(A) the child and the child's parents, or the child and at least one (1) parent or person acting as a parent, have a significant connection with Indiana other than mere physical presence; and

(B) substantial evidence is available in Indiana concerning the child's care, protection, training, and personal relationships.

(3) All courts having jurisdiction under subdivision (1) or (2) have declined to exercise jurisdiction on the ground that an Indiana court is the more appropriate forum to determine the custody of the child under section 8 or 9 of this chapter.

(4) No court of any other state would have jurisdiction under the criteria specified in subdivision (1), (2), or (3).

(b) The jurisdictional requirements described in this section provide the exclusive jurisdictional basis for making a child custody determination by an Indiana court.

(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

Sec. 2. (a) Except as otherwise provided in section 4 of this chapter, an Indiana court that has made a child custody determination consistent with section 1 or 3 of this chapter has exclusive, continuing jurisdiction over the determination until:

(1) an Indiana court determines that:

(A) neither:

(i) the child;

(ii) the child's parents; nor

(iii) any person acting as a parent;

has a significant connection with Indiana; and

(B) substantial evidence is no longer available in Indiana concerning the child's care, protection, training, and personal relationships; or

(2) an Indiana court or a court of another state determines that:

(A) the child;

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- 1 (B) the child's parents; and  
 2 (C) any person acting as a parent;  
 3 do not presently reside in Indiana.  
 4 (b) An Indiana court that:  
 5 (1) has made a child custody determination; and  
 6 (2) does not have exclusive, continuing jurisdiction under this  
 7 section;

8 may modify the determination only if the Indiana court has  
 9 jurisdiction to make an initial determination under section 1 of this  
 10 chapter.

11 Sec. 3. Except as provided in section 4 of this chapter, an  
 12 Indiana court may not modify a child custody determination made  
 13 by a court of another state unless an Indiana court has jurisdiction  
 14 to make an initial determination under section 1(a)(1) or 1(a)(2) of  
 15 this chapter and:

- 16 (1) the court of the other state determines that:  
 17 (A) it no longer has exclusive, continuing jurisdiction  
 18 under section 2 of this chapter; or  
 19 (B) an Indiana court would be a more convenient forum  
 20 under section 8 of this chapter; or  
 21 (2) an Indiana court or a court of the other state determines  
 22 that:  
 23 (A) the child;  
 24 (B) the child's parents; and  
 25 (C) any person acting as a parent;  
 26 do not presently reside in the other state.

27 Sec. 4. (a) An Indiana court has temporary emergency  
 28 jurisdiction if the child is present in Indiana and:

- 29 (1) the child has been abandoned; or  
 30 (2) it is necessary in an emergency to protect the child  
 31 because:  
 32 (A) the child;  
 33 (B) the child's sibling; or  
 34 (C) the child's parent;  
 35 is subjected to or threatened with mistreatment or abuse.

36 (b) If:

- 37 (1) there is no previous child custody determination that is  
 38 entitled to be enforced under this article; and  
 39 (2) a child custody proceeding has not been commenced in a  
 40 court of a state having jurisdiction under sections 1 through  
 41 3 of this chapter;

42 a child custody determination made under this section remains in

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effect until an order is obtained from a court of a state having jurisdiction under sections 1 through 3 of this chapter.

(c) If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 1 through 3 of this chapter, a child custody determination made under this section becomes a final determination, and, if it so provides, Indiana becomes the home state of the child.

(d) If:

(1) there is a previous child custody determination that is entitled to be enforced under this article; or

(2) a child custody proceeding has been commenced in a court of a state having jurisdiction under sections 1 through 3 of this chapter;

an order issued by an Indiana court under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 1 through 3 of this chapter.

(e) The order issued in Indiana remains in effect until an order is obtained from the other state within the period specified or the period expires.

(f) An Indiana court that has been asked to make a child custody determination under this section, on being informed that:

(1) a child custody proceeding has been commenced in; or

(2) a child custody determination has been made by;

a court of a state having jurisdiction under sections 1 through 3 of this chapter, shall immediately communicate with the other court.

(g) An Indiana court that is exercising jurisdiction under sections 1 through 3 of this chapter, on being informed that:

(1) a child custody proceeding has been commenced in; or

(2) a child custody determination has been made by;

a court of another state under a statute similar to this section, shall immediately communicate with the court of the other state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

Sec. 5. (a) Before a child custody determination is made under this article, notice and an opportunity to be heard in accordance with the standards of IC 31-21-3-3 must be given to the following persons:

(1) Persons entitled to notice under Indiana law as in child custody proceedings between residents of Indiana.

(2) A parent whose parental rights have not been previously

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terminated.

(3) Any person having physical custody of the child.

(b) This article does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(c) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this article are governed by Indiana law in the same manner as in child custody proceedings between Indiana residents.

Sec. 6. (a) Except as otherwise provided in section 4 of this chapter, an Indiana court may not exercise its jurisdiction under this article if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this article, unless the proceeding:

(1) has been terminated; or

(2) is stayed by the court of the other state because an Indiana court is a more convenient forum under section 8 of this chapter.

(b) Except as otherwise provided in section 4 of this chapter, an Indiana court, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties under sections 10 through 13 of this chapter. If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this article, the Indiana court shall:

(1) stay its proceeding; and

(2) communicate with the court of the other state.

If the court of the state having jurisdiction substantially in accordance with this article does not determine that the Indiana court is a more appropriate forum, the Indiana court shall dismiss the proceeding.

Sec. 7. In a proceeding to modify a child custody determination, an Indiana court shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the Indiana court may:

(1) stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

(2) enjoin the parties from continuing with the proceeding for

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enforcement; or

(3) proceed with the modification under conditions the Indiana court considers appropriate.

Sec. 8. (a) An Indiana court that has jurisdiction under this article to make a child custody determination may decline to exercise its jurisdiction at any time if the Indiana court determines that:

(1) the Indiana court is an inconvenient forum under the circumstances; and

(2) a court of another state is a more appropriate forum.

The issue of inconvenient forum may be raised on motion of a party, the court's own motion, or request of another court.

(b) Before determining whether an Indiana court is an inconvenient forum, the Indiana court shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the Indiana court shall allow the parties to submit information and shall consider the relevant factors, including the following:

(1) Whether domestic violence has occurred and is likely to continue in the future and which state is best able to protect the parties and the child.

(2) The length of time the child has resided outside Indiana.

(3) The distance between the Indiana court and the court in the state that would assume jurisdiction.

(4) The relative financial circumstances of the parties.

(5) An agreement of the parties as to which state should assume jurisdiction.

(6) The nature and location of the evidence required to resolve the pending litigation, including the child's testimony.

(7) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence.

(8) The familiarity of the court of each state with the facts and issues in the pending litigation.

(c) If an Indiana court determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, the Indiana court:

(1) shall stay the proceedings on condition that a child custody proceeding be promptly commenced in another designated state; and

(2) may impose any other condition the Indiana court considers just and proper.

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(d) An Indiana court may decline to exercise its jurisdiction under this article if a child custody determination is incidental to an action for dissolution of marriage or another proceeding while still retaining jurisdiction over the dissolution of marriage or other proceeding.

Sec. 9. (a) Except as otherwise provided in section 4 of this chapter or by any other Indiana law, if an Indiana court has jurisdiction under this article because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(1) the child's parents and any person acting as a parent have acquiesced in the exercise of jurisdiction;

(2) a court of the state otherwise having jurisdiction under sections 1 through 3 of this chapter determines that Indiana is a more appropriate forum under section 8 of this chapter; or

(3) no court of any other state would have jurisdiction under the criteria specified in sections 1 through 3 of this chapter.

(b) If an Indiana court declines to exercise its jurisdiction under subsection (a), the Indiana court may fashion an appropriate remedy to:

(1) ensure the safety of the child; and

(2) prevent a repetition of the unjustifiable conduct; including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under sections 1 through 3 of this chapter.

(c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction under subsection (a), the court shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses, including:

(1) costs;

(2) communication expenses;

(3) attorney's fees;

(4) investigative fees;

(5) expenses for witnesses;

(6) travel expenses; and

(7) child care during the course of the proceedings;

unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against the state unless authorized by law other than this article.

Sec. 10. (a) Subject to local law providing for the confidentiality

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of procedures, addresses, and other identifying information in a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall provide information, under oath, regarding:

(1) the child's present address or whereabouts and the places where the child has lived during the immediately preceding five (5) years; and

(2) the names and present addresses of the persons with whom the child has lived during that period.

(b) The pleading or affidavit must state the following:

(1) Whether the party has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify:

(A) the court;

(B) the case number; and

(C) the date of the child custody determination, if any.

(2) Whether the party knows of a proceeding that may affect the current proceeding, including proceedings for enforcement and proceedings relating to:

(A) domestic violence;

(B) protective orders;

(C) termination of parental rights; and

(D) adoptions;

and, if so, identify the court, the case number, and the nature of the proceeding.

(3) Whether the party knows the names and addresses of a person not a party to the proceeding who:

(A) has physical custody of the child; or

(B) claims rights of legal custody or physical custody of, or visitation with, the child;

and, if so, the names and addresses of the persons.

(c) If the information required by subsection (a) is not furnished, the court, on motion of a party or its own motion, may stay the proceeding until the information is furnished.

Sec. 11. If the declaration as to any of the items described in section 10(b)(1) through 10(b)(3) of this chapter is in the affirmative, the party shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to:

(1) the court's jurisdiction; and

(2) the disposition of the case.

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1        **Sec. 12. Each party has a continuing duty to inform the court of**  
 2 **a proceeding in Indiana or any other state that may affect the**  
 3 **current proceeding.**

4        **Sec. 13. If a party alleges in an affidavit or a pleading under**  
 5 **oath that the health, safety, or liberty of a party or child would be**  
 6 **jeopardized by disclosure of identifying information, the**  
 7 **information must be sealed and may not be disclosed to the other**  
 8 **party or the public unless the court orders the disclosure to be**  
 9 **made after a hearing in which the court:**

10            (1) takes into consideration the health, safety, or liberty of the  
 11            party or child; and

12            (2) determines that the disclosure is in the interest of justice.

13        **Sec. 14. (a) In a child custody proceeding in Indiana, the court**  
 14 **may order a party to the proceeding who is in Indiana to appear**  
 15 **before the court in person with or without the child. The court may**  
 16 **order any person who:**

17            (1) is in Indiana; and

18            (2) has physical custody or control of the child;  
 19 **to appear in person with the child.**

20        (b) If a party to a child custody proceeding whose presence is  
 21 desired by the court is outside Indiana, the court may order that a  
 22 notice given under IC 31-21-3-3 include a statement:

23            (1) directing the party to appear in person with or without the  
 24            child; and

25            (2) informing the party that failure to appear may result in a  
 26            decision adverse to the party.

27        (c) The court may enter an order necessary to ensure the safety  
 28 of:

29            (1) the child; and

30            (2) any person ordered to appear under this section.

31        (d) If a party to a child custody proceeding who is outside  
 32 Indiana:

33            (1) is directed to appear under subsection (b); or

34            (2) desires to appear personally before the court with or  
 35            without the child;

36 **the court may require another party to pay reasonable and**  
 37 **necessary travel and other expenses of the party who appears and**  
 38 **of the child.**

### 39        **Chapter 6. Enforcement**

40        **Sec. 1. Under this chapter, an Indiana court may enforce an**  
 41 **order for the return of the child made under the Hague Convention**  
 42 **on the Civil Aspects of International Child Abduction as if it were**

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1 a child custody determination.

2 Sec. 2. (a) An Indiana court shall recognize and enforce a child  
3 custody determination of a court of another state if the court of  
4 another state exercised jurisdiction in substantial conformity with  
5 this article or the determination:

6 (1) was made under factual circumstances meeting the  
7 jurisdictional standards of this article; and

8 (2) has not been modified in accordance with this article.

9 (b) An Indiana court may use a remedy available under any  
10 other Indiana law to enforce a child custody determination made  
11 by a court of another state. The remedies provided in this article:

12 (1) are cumulative; and

13 (2) do not affect the availability of other remedies to enforce  
14 a child custody determination.

15 Sec. 3. (a) An Indiana court that does not have jurisdiction to  
16 modify a child custody determination may issue a temporary order  
17 enforcing:

18 (1) a visitation schedule made by a court of another state; or

19 (2) the visitation provisions of a child custody determination  
20 of another state that does not provide for a specific visitation  
21 schedule.

22 (b) If an Indiana court makes an order under subsection (a)(2),  
23 the Indiana court shall specify in the order a period that it  
24 considers adequate to allow the petitioner to obtain an order from  
25 a court having jurisdiction under the criteria specified in  
26 IC 31-21-5. The order remains in effect until:

27 (1) an order is obtained from the court having jurisdiction; or

28 (2) the period expires.

29 Sec. 4. (a) A child custody determination issued by a court of  
30 another state may be registered in Indiana, with or without a  
31 simultaneous request for enforcement, by sending the following to  
32 the appropriate Indiana court:

33 (1) A letter or other document requesting registration.

34 (2) Two (2) copies, including one (1) certified copy, of the  
35 determination sought to be registered and a statement under  
36 penalty of perjury that to the best of the knowledge and belief  
37 of the person seeking registration the order has not been  
38 modified.

39 (3) Except as otherwise provided in section 13 of this chapter:

40 (A) the name and address of the person seeking  
41 registration; and

42 (B) the name of a parent or person acting as a parent who

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- 1           has been awarded custody or visitation in the child custody  
 2           determination sought to be registered.
- 3           (b) On receipt of the documents required by subsection (a), the  
 4           registering court shall:
- 5               (1) cause the determination to be filed as a foreign judgment,  
 6               together with one (1) copy of the accompanying documents  
 7               and information, regardless of their form; and  
 8               (2) serve notice on each person named under subsection (a)(3)  
 9               and provide the person with an opportunity to contest the  
 10              registration in accordance with this section.
- 11          (c) The notice required by subsection (b)(2) must state the  
 12          following:
- 13               (1) A registered determination is enforceable as of the date of  
 14               the registration in the same manner as a child custody  
 15               determination issued by an Indiana court.  
 16               (2) A hearing to contest the validity of the registered  
 17               determination must be requested not more than twenty (20)  
 18               days after service of notice.  
 19               (3) Failure to contest the registration shall:
- 20                   (A) result in confirmation of the child custody  
 21                   determination; and  
 22                   (B) preclude further contest of that determination with  
 23                   respect to a matter that may have otherwise been asserted.
- 24          Sec. 5. (a) A person seeking to contest the validity of a registered  
 25          order must request a hearing not more than twenty (20) days after  
 26          service of the notice. At the hearing, the court shall confirm the  
 27          registered order unless the person contesting the registration  
 28          establishes that:
- 29               (1) the issuing court did not have jurisdiction under  
 30               IC 31-21-5;  
 31               (2) the child custody determination sought to be registered has  
 32               been:
- 33                   (A) vacated;  
 34                   (B) stayed; or  
 35                   (C) modified;  
 36               by a court having jurisdiction to do so under IC 31-21-5; or  
 37               (3) the person contesting registration was entitled to notice,  
 38               but notice was not given in accordance with the standards of  
 39               IC 31-21-3-3 in the proceedings before the court that issued  
 40               the order for which registration is sought.
- 41          (b) If a timely request for a hearing to contest the validity of the  
 42          registration is not made:

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- (1) the registration is confirmed as a matter of law; and
- (2) the person requesting registration and each person served must be notified of the confirmation.

(c) Confirmation of a registered order whether:

- (1) by operation of law; or
- (2) after notice and hearing;

precludes further contest of the order with respect to a matter that may have been asserted at the time of registration.

Sec. 6. (a) An Indiana court may grant a relief normally available under Indiana law to enforce a registered child custody determination made by a court of another state.

(b) An Indiana court shall recognize and enforce, but may not modify, except in accordance with IC 31-21-5, a registered child custody determination of a court of another state.

Sec. 7. If a proceeding for enforcement under this article is commenced in an Indiana court and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under IC 31-21-5, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

Sec. 8. (a) A petition under this article must be verified. Certified copies of:

- (1) the orders sought to be enforced; and
- (2) an order confirming registration;

must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child custody determination must state the following:

- (1) Whether the court that issued the determination identified the jurisdictional basis it relied on in exercising jurisdiction and, if so, what the basis was.
- (2) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this article and, if so, identify:
  - (A) the court;
  - (B) the case number; and
  - (C) the nature of the proceeding.
- (3) Whether a proceeding has been commenced that may

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1 affect the current proceeding, including proceedings relating  
2 to:

- 3 (A) domestic violence;
- 4 (B) protective orders;
- 5 (C) termination of parental rights; and
- 6 (D) adoptions;

7 and, if so, identify the court, the case number, and the nature  
8 of the proceeding.

9 (4) The present physical address of the child and the  
10 respondent, if known.

11 (5) Whether relief in addition to the immediate physical  
12 custody of the child and attorney's fees is sought, including a  
13 request for assistance from law enforcement officials and, if  
14 so, the relief sought.

15 (6) If the child custody determination has been registered and  
16 confirmed under sections 4 and 5 of this chapter, the date and  
17 place of registration.

18 **Sec. 9. (a) On the filing of a petition, the court:**

- 19 (1) shall issue an order directing the respondent to appear in
- 20 person with or without the child at a hearing; and
- 21 (2) may enter an order necessary to ensure the safety of the
- 22 parties and the child.

23 The hearing must be held on the next judicial day after service of  
24 the order unless holding the hearing on that date is impossible. In  
25 that event, the court shall hold the hearing on the first judicial day  
26 possible. The court may extend the date of hearing at the request  
27 of the petitioner.

28 (b) An order issued under subsection (a) must state the time and  
29 place of the hearing and advise the respondent that at the hearing  
30 the court will order that the petitioner may take immediate  
31 physical custody of the child and the payment of fees, costs, and  
32 expenses under section 15 of this chapter and may schedule a  
33 hearing to determine whether further relief is appropriate unless  
34 the respondent appears and establishes that:

- 35 (1) the child custody determination has not been registered
- 36 and confirmed under sections 4 and 5 of this chapter and that:
  - 37 (A) the issuing court did not have jurisdiction under
  - 38 IC 31-21-5;
  - 39 (B) the child custody determination for which enforcement
  - 40 is sought has been vacated, stayed, or modified by a court
  - 41 having jurisdiction under IC 31-21-5; or
  - 42 (C) the respondent was entitled to notice, but notice was

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not given in accordance with the standards of IC 31-21-3-3  
in the proceedings before the court that issued the order  
for which enforcement is sought; or

(2) the child custody determination for which enforcement is  
sought was registered and confirmed under sections 4 and 5  
of this chapter but has been vacated, stayed, or modified by a  
court of a state having jurisdiction under IC 31-21-5.

**Sec. 10.** Except as otherwise provided in section 13 or 14 of this  
chapter, the petition and order must be served, by a method  
authorized by Indiana law, on the respondent and any person who  
has physical custody of the child.

**Sec. 11.** Unless the court issues a temporary emergency order  
under IC 31-21-5-4 on a finding that a petitioner is entitled to  
immediate physical custody of the child, the court shall order that  
the petitioner may take immediate physical custody of the child  
unless the respondent establishes that:

(1) the child custody determination has not been registered  
and confirmed under sections 4 and 5 of this chapter and that:

(A) the issuing court did not have jurisdiction under  
IC 31-21-5;

(B) the child custody determination for which enforcement  
is sought has been vacated, stayed, or modified by a court  
of a state having jurisdiction to do so under IC 31-21-5; or  
(C) the respondent was entitled to notice, but notice was  
not given in accordance with the standards of IC 31-21-3-3  
in the proceedings before the court that issued the order  
for which enforcement is sought; or

(2) the child custody determination for which enforcement is  
sought was registered and confirmed under sections 4 and 5  
of this chapter but has been vacated, stayed, or modified by a  
court of a state having jurisdiction under IC 31-21-5.

**Sec. 12. (a)** The court:

(1) shall award the fees, costs, and expenses authorized under  
section 15 of this chapter; and

(2) may grant additional relief, including a request for the  
assistance of law enforcement officials, and set a hearing to  
determine whether additional relief is appropriate.

(b) If a party called to testify refuses to answer on the ground  
that the testimony may be self-incriminating, the court may draw  
an adverse inference from the refusal.

(c) A privilege against disclosure of communications between  
spouses and a defense of immunity based on the relationship of

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1 husband and wife or parent and child may not be invoked in a  
2 proceeding under this chapter.

3 Sec. 13. (a) On the filing of a petition seeking enforcement of a  
4 child custody determination, the petitioner may file a verified  
5 application for the issuance of a warrant to take physical custody  
6 of the child if the child is immediately likely to:

7 (1) suffer serious physical harm; or

8 (2) be removed from Indiana.

9 (b) If the court, on the testimony of the petitioner or other  
10 witness, finds that the child is imminently likely to suffer serious  
11 physical harm or be removed from Indiana, the court may issue a  
12 warrant to take physical custody of the child. The petition must be  
13 heard on the next judicial day after the warrant is executed unless  
14 hearing the petition on that date is impossible. In that event, the  
15 court shall hold the hearing on the first judicial day possible. The  
16 application for the warrant must include the statements required  
17 by section 8(b) of this chapter.

18 Sec. 14. (a) A warrant to take physical custody of a child must:

19 (1) recite the facts on which a conclusion of imminent serious  
20 physical harm or removal from the jurisdiction is based;

21 (2) direct law enforcement officers to take physical custody of  
22 the child immediately; and

23 (3) provide for the placement of the child pending final relief.

24 (b) The respondent must be served with the petition, warrant,  
25 and order immediately after the child is taken into physical  
26 custody.

27 (c) A warrant to take physical custody of a child is enforceable  
28 throughout Indiana. If the court finds on the basis of the testimony  
29 of the petitioner or other witness that a less intrusive remedy is not  
30 effective, the court may authorize law enforcement officers to enter  
31 private property to take physical custody of the child. If required  
32 by exigent circumstances of the case, the court may authorize law  
33 enforcement officers to make a forcible entry at any hour.

34 (d) The court may impose conditions on the placement of a child  
35 to ensure the appearance of the child and the child's custodian.

36 Sec. 15. (a) The court shall award the prevailing party, including  
37 a state, necessary and reasonable expenses incurred by or on behalf  
38 of the party, including:

39 (1) costs;

40 (2) communication expenses;

41 (3) attorney's fees;

42 (4) investigative fees;

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1 (5) expenses for witnesses;  
 2 (6) travel expenses; and  
 3 (7) child care during the course of the proceedings;  
 4 unless the party from whom fees or expenses are sought establishes  
 5 that the award would be clearly inappropriate.

6 (b) The court may not assess fees, costs, or expenses against a  
 7 state unless authorized by law other than this article.

8 **Sec. 16. An Indiana court shall accord full faith and credit to an**  
 9 **order issued by another state and consistent with this article that**  
 10 **enforces a child custody determination by a court of another state**  
 11 **unless the order has been vacated, stayed, or modified by a court**  
 12 **having jurisdiction under IC 31-21-5.**

13 **Sec. 17. An appeal may be taken from a final order in a**  
 14 **proceeding under this article in accordance with expedited**  
 15 **appellate procedures in other civil cases. Unless the court enters a**  
 16 **temporary emergency order under IC 31-21-5-4, the enforcing**  
 17 **court may not stay an order enforcing a child custody**  
 18 **determination pending appeal.**

19 **Sec. 18. (a) In a case arising under this article or involving the**  
 20 **Hague Convention on the Civil Aspects of International Child**  
 21 **Abduction, a prosecuting attorney or other appropriate public**  
 22 **official may take a lawful action, including resorting to a**  
 23 **proceeding under this article or any other available civil**  
 24 **proceeding, to locate a child, obtain the return of a child, or**  
 25 **enforce a child custody determination if there is:**

- 26 (1) an existing child custody determination;
- 27 (2) a request to do so from a court in a pending child custody
- 28 proceeding;
- 29 (3) a reasonable belief that a criminal statute has been
- 30 violated; or
- 31 (4) a reasonable belief that the child has been wrongfully
- 32 removed or retained in violation of the Hague Convention on
- 33 the Civil Aspects of International Child Abduction.

34 **(b) A prosecuting attorney or other appropriate public official**  
 35 **acting under this section acts on behalf of the court and may not**  
 36 **represent a party.**

37 **Sec. 19. At the request of a prosecuting attorney or other**  
 38 **appropriate public official acting under section 18 of this chapter,**  
 39 **a law enforcement officer may:**

- 40 (1) take a lawful action reasonably necessary to locate a child
- 41 or a party; and
- 42 (2) assist a prosecuting attorney or appropriate public official

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with responsibilities under section 18 of this chapter.

**Sec. 20.** If the respondent is not the prevailing party, the court may assess against the respondent the direct expenses and costs incurred by the prosecuting attorney or other appropriate public official and law enforcement officers under section 18 or 19 of this chapter.

#### **Chapter 7. Miscellaneous Provisions**

**Sec. 1.** In applying and construing this article, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**Sec. 2.** If a provision of this article or its application to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

**Sec. 3.** A motion or other request for relief made:

(1) in a child custody proceeding; or

(2) to enforce a child custody determination;

that was commenced before July 1, 2007, is governed by the law in effect at the time the motion or other request was made.

SECTION 64. IC 31-25-3-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 3.** The bureau established by section 1 of this chapter or an agent of the bureau may issue a subpoena under Indiana Trial Rule 45 to obtain any financial or other information needed to establish, modify, or enforce a child support order.

SECTION 65. IC 31-25-4-17, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 17.** (a) The bureau shall do the following:

(1) Collect support payments when the payments have been assigned to the state by the application for assistance under Title IV-A.

(2) Assist in obtaining a support order, including an order for health insurance coverage under:

(A) IC 27-8-23;

(B) IC 31-14-11-3; or

(C) IC 31-16-6-4;

when there is no existing order and assistance is sought.

(3) Assist mothers of children born out of wedlock in establishing paternity and obtaining a support order, including an order for health insurance coverage under IC 27-8-23, when the mother has

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1 applied for assistance.

2 (4) Implement income withholding in any Title IV-D case:

3 (A) with an arrearage; and

4 (B) without an order issued by a court or an administrative  
5 agency.

6 (5) Enforce intrastate and interstate support orders using high  
7 volume automated enforcement features.

8 (6) Use a simplified procedure for the review and adjustment of  
9 support orders as set forth in 42 U.S.C. 666(a)(10).

10 (b) Whenever the bureau collects support payments on behalf of an  
11 individual who is no longer a member of a household that receives Title  
12 IV-A cash payments, the collected support payments (except  
13 collections made through a federal tax refund offset) shall be promptly  
14 distributed in the following order:

15 (1) Payment to the recipient of the court ordered support  
16 obligation for the month that the support payment is received.

17 (2) Payment to the recipient of the support payment arrearages  
18 that have accrued during any period when the recipient was not a  
19 member of a household receiving Title IV-A assistance.

20 (3) Payment to the state in an amount not to exceed the lesser of:

21 (A) the total amount of past public assistance paid to the  
22 recipient's family; or

23 (B) the amount assigned to the state by the recipient under  
24 IC 12-14-7-1.

25 (4) Payment of support payment arrearages owed to the recipient.

26 (5) Payment of any other support payments payable to the  
27 recipient.

28 (c) Whenever the bureau receives a payment through a federal tax  
29 refund offset on behalf of an individual who has received or is  
30 receiving Title IV-A assistance, the child support payment shall be  
31 distributed as follows:

32 (1) To the state, an amount not to exceed the lesser of:

33 (A) the total amount of past public assistance paid to the  
34 individual's family; or

35 (B) the amount assigned to the state by the individual under  
36 IC 12-14-7-1.

37 (2) To the individual, any amounts remaining after the  
38 distribution under subdivision (1).

39 (d) **Except as provided in section 19.5 of this chapter**, whenever  
40 the bureau collects a child support payment from any source on behalf  
41 of an individual who has never received Title IV-A assistance, the  
42 bureau shall forward all money collected to the individual.

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(e) Whenever the bureau receives a child support payment on behalf of an individual who currently receives a Title IV-A cash payment or an individual whose cash payment was recouped, the child support payment shall be distributed as follows:

(1) To the state, an amount not to exceed the lesser of:

(A) the total amount of past public assistance paid to the individual's family; or

(B) the amount assigned to the state by the individual under IC 12-14-7-1.

(2) To the individual, any amounts remaining after the distribution under subdivision (1).

(f) Unless otherwise required by federal law, not more than seventy-five (75) days after a written request by a recipient, the bureau shall provide an accounting report to the recipient that identifies the bureau's claim to a child support payment or arrearage.

SECTION 66. IC 31-25-4-19.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 19.5. (a) If a Title IV-D agency collects at least five hundred dollars (\$500) of child support payments on behalf of an individual who has never received Title IV-A assistance, the Title IV-D agency shall collect a fee in accordance with 42 U.S.C. 654(6). The Title IV-D agency may collect the fee by issuance and implementation of an income withholding order.**

**(b) The Title IV-D agency shall collect the fee described in subsection (a) from one (1) of the following:**

**(1) Any amount of child support payments that exceeds five hundred dollars (\$500) collected on behalf of the individual who applied for the services of collecting the child support payments.**

**(2) The parent who owes the child support obligation being enforced by the Title IV-D agency.**

**(3) State funds appropriated for the purpose of paying a fee under subsection (a).**

SECTION 67. IC 31-25-4-31, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 31. (a) The bureau shall operate a data match system with each financial institution doing business in Indiana.**

**(b) Each financial institution doing business in Indiana shall provide information to the bureau on all noncustodial parents who:**

**(1) hold one (1) or more accounts with the financial institution;**

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and

(2) are delinquent.

(c) In order to provide the information required under subsection (b), a financial institution shall either:

(1) identify noncustodial parents by comparing records maintained by the financial institution with records provided by the bureau by:

(A) name; and

(B) either Social Security number or tax identification number; or

(2) submit to the bureau a report, in a form satisfactory to the bureau, that includes the Social Security number or tax identification number of each individual maintaining an account at the financial institution.

(d) The information required under subsection (b) must:

(1) be provided on a quarterly basis; and

(2) include the:

(A) name;

(B) address of record; and

(C) either the Social Security number or tax identification number;

of an individual identified under subsection (b).

(e) **Subject to section 31.5 of this chapter**, when the bureau has determined that the information required under subsection (d)(2) is identical for an individual who holds an account with a financial institution and an individual whose name appears on the quarterly list prepared by the bureau under section 30 of this chapter, the bureau shall provide a notice of the match if action is to be initiated to block or encumber the account by establishing a lien for child support payment to the:

(1) individual; and

(2) financial institution holding the account.

(f) The notice under section (e) must inform the individual that:

(1) the individual's account in a financial institution is subject to a child support lien; and

(2) the individual may file an appeal with the bureau within twenty (20) days after the date the notice was issued.

(g) The bureau shall hold a hearing under 470 IAC 1-4. The department's final action following a hearing held under this ~~subdivision~~ **subsection** is subject to judicial review as provided in 470 IAC 1-4.

(h) The state's lien on assets under this section is subordinate to any

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prior lien perfected by:

- (1) a financial institution; or
- (2) another legitimate lien holder.

(i) A lien issued under this section remains in effect until the earliest of:

- (1) one hundred twenty (120) days after issuance;
- (2) the date the asset on which the lien is issued is surrendered; or
- (3) the date the lien is released by an action of the bureau.

(j) This section does not preclude a financial institution from exercising its right to:

- (1) charge back or recoup a deposit to an account; or
- (2) set off from an account held by the financial institution in which the noncustodial parent has an interest in any debts owed to the financial institution that existed before:

(A) the state's lien; and

(B) notification to the financial institution of the child support delinquency.

(k) A financial institution ordered to block or encumber an account under this section is entitled to collect its normally scheduled account activity fees to maintain the account during the period the account is blocked or encumbered.

(l) All information provided by a financial institution under this section is confidential and is available only to the bureau or its agents for use only in child support enforcement activities.

(m) A financial institution providing information required under this section is not liable for:

- (1) disclosing the required information to the bureau;
- (2) blocking or surrendering any of an individual's assets in response to a lien imposed by:
  - (A) the bureau under this section; or
  - (B) a person or entity acting on behalf of the bureau; or
- (3) any other action taken in good faith to comply with this section.

(n) The department shall pay a financial institution performing the data match required by this section a reasonable fee for providing the service that does not exceed the actual cost incurred by the financial institution.

(o) This section does not prevent the bureau or its agents from encumbering an obligor's account with a financial institution by any other remedy available for the enforcement of a child support order.

SECTION 68. IC 31-25-4-32, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2007]: Sec. 32. (a) When the Title IV-D agency finds that an obligor is delinquent and can demonstrate that all previous enforcement actions have been unsuccessful, the Title IV-D agency shall send, to a verified address, a notice to the obligor that does the following:

- (1) Specifies that the obligor is delinquent.
- (2) Describes the amount of child support that the obligor is in arrears.
- (3) States that unless the obligor:
  - (A) pays the obligor's child support arrearage in full;
  - (B) ~~requests the activation of an income withholding order under IC 31-16-15-2~~ and establishes a payment plan with the Title IV-D agency to pay the arrearage, **which includes an income withholding order**; or
  - (C) requests a hearing under section 33 of this chapter; within twenty (20) days after the date the notice is mailed, the Title IV-D agency shall issue an order to the bureau of motor vehicles stating that the obligor is delinquent and that the obligor's driving privileges shall be suspended.
- (4) Explains that the obligor has twenty (20) days after the notice is mailed to do one (1) of the following:
  - (A) Pay the obligor's child support arrearage in full.
  - (B) ~~Request the activation of an income withholding order under IC 31-16-15-2~~ and Establish a payment plan with the Title IV-D agency to pay the arrearage, **which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.**
  - (C) Request a hearing under section 33 of this chapter.
- (5) Explains that if the obligor has not satisfied any of the requirements of subdivision (4) within twenty (20) days after the notice is mailed, that the Title IV-D agency shall issue a notice to:
  - (A) the board or department that regulates the obligor's profession or occupation, if any, that the obligor is delinquent and that the obligor may be subject to sanctions under IC 25-1-1.2, including suspension or revocation of the obligor's professional or occupational license;
  - (B) the supreme court disciplinary commission if the obligor is licensed to practice law;
  - (C) the department of education established by IC 20-19-3-1 if the obligor is a licensed teacher;
  - (D) the Indiana horse racing commission if the obligor holds or applies for a license issued under IC 4-31-6;

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- 1 (E) the Indiana gaming commission if the obligor holds or  
 2 applies for a license issued under IC 4-33;  
 3 (F) the commissioner of the department of insurance if the  
 4 obligor holds or is an applicant for a license issued under  
 5 IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3; or  
 6 (G) the director of the department of natural resources if the  
 7 obligor holds or is an applicant for a license issued by the  
 8 department of natural resources under the following:  
 9 (i) IC 14-22-12 (fishing, hunting, and trapping licenses).  
 10 (ii) IC 14-22-14 (Lake Michigan commercial fishing  
 11 license).  
 12 (iii) IC 14-22-16 (bait dealer's license).  
 13 (iv) IC 14-22-17 (mussel license).  
 14 (v) IC 14-22-19 (fur buyer's license).  
 15 (vi) IC 14-24-7 (nursery dealer's license).  
 16 (vii) IC 14-31-3 (ginseng dealer's license).  
 17 (6) Explains that the only basis for contesting the issuance of an  
 18 order under subdivision (3) or (5) is a mistake of fact.  
 19 (7) Explains that an obligor may contest the Title IV-D agency's  
 20 determination to issue an order under subdivision (3) or (5) by  
 21 making written application to the Title IV-D agency within twenty  
 22 (20) days after the date the notice is mailed.  
 23 (8) Explains the procedures to:  
 24 (A) pay the obligor's child support arrearage in full; **and**  
 25 (B) establish a payment plan with the Title IV-D agency to pay  
 26 the arrearage, **and which must include an income**  
 27 **withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.**  
 28 ~~(C) request the activation of an income withholding order~~  
 29 ~~under IC 31-16-15-2.~~  
 30 (b) Whenever the Title IV-D agency finds that an obligor is  
 31 delinquent and has failed to:  
 32 (1) pay the obligor's child support arrearage in full;  
 33 (2) establish a payment plan with the Title IV-D agency to pay the  
 34 arrearage, ~~and request the activation of which includes~~ an income  
 35 withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5**; or  
 36 (3) request a hearing under section 33 of this chapter within  
 37 twenty (20) days after the date the notice described in subsection  
 38 (a) is mailed;  
 39 the Title IV-D agency shall issue an order to the bureau of motor  
 40 vehicles stating that the obligor is delinquent.  
 41 (c) An order issued under subsection (b) must require the following:  
 42 (1) If the obligor who is the subject of the order holds a driving

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license or permit on the date the order is issued, that the driving privileges of the obligor be suspended until further order of the Title IV-D agency.

(2) If the obligor who is the subject of the order does not hold a driving license or permit on the date the order is issued, that the bureau of motor vehicles may not issue a driving license or permit to the obligor until the bureau of motor vehicles receives a further order from the Title IV-D agency.

(d) The Title IV-D agency shall provide the:

- (1) full name;
- (2) date of birth;
- (3) verified address; and
- (4) Social Security number or driving license number;

of the obligor to the bureau of motor vehicles.

(e) Whenever the Title IV-D agency finds that an obligor who is an applicant (as defined in IC 25-1-1.2-1) or a practitioner (as defined in IC 25-1-1.2-6) is delinquent and the applicant or practitioner has failed to:

- (1) pay the obligor's child support arrearage in full;
- (2) establish a payment plan with the Title IV-D agency to pay the arrearage, ~~or request the activation of which includes~~ an income withholding order under ~~IC 31-16-15;~~ **IC 31-16-15-2 or IC 31-16-15-2.5;** or
- (3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the board regulating the practice of the obligor's profession or occupation stating that the obligor is delinquent.

(f) An order issued under subsection (e) must direct the board or department regulating the obligor's profession or occupation to impose the appropriate sanctions described under IC 25-1-1.2.

(g) Whenever the Title IV-D agency finds that an obligor who is an attorney or a licensed teacher is delinquent and the attorney or licensed teacher has failed to:

- (1) pay the obligor's child support arrearage in full;
- (2) establish a payment plan with the Title IV-D agency to pay the arrearage, ~~or request the activation of which includes~~ an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5;** or
- (3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall notify the supreme court disciplinary commission if the obligor is an attorney, or the department of education if the obligor is a licensed teacher, that the obligor is delinquent.

(h) Whenever the Title IV-D agency finds that an obligor who holds

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a license issued under IC 4-31-6 or IC 4-33 has failed to:

- (1) pay the obligor's child support arrearage in full;
- (2) establish a payment plan with the Title IV-D agency to pay the arrearage, ~~and request the activation of which includes~~ an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5**; or
- (3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the Indiana horse racing commission if the obligor holds a license issued under IC 4-31-6, or to the Indiana gaming commission if the obligor holds a license issued under IC 4-33, stating that the obligor is delinquent and directing the commission to impose the appropriate sanctions described in IC 4-31-6-11 or IC 4-33-8.5-3.

(i) Whenever the Title IV-D agency finds that an obligor who holds a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3 has failed to:

- (1) pay the obligor's child support arrearage in full;
- (2) establish a payment plan with the Title IV-D agency to pay the arrearage, ~~and request the activation of which includes~~ an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5**; or
- (3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the commissioner of the department of insurance stating that the obligor is delinquent and directing the commissioner to impose the appropriate sanctions described in IC 27-1-15.6-29 or IC 27-10-3-20.

(j) Whenever the Title IV-D agency finds that an obligor who holds a license issued by the department of natural resources under IC 14-22-12, IC 14-22-14, IC 14-22-16, IC 14-22-17, IC 14-22-19, IC 14-24-7, or IC 14-31-3 has failed to:

- (1) pay the obligor's child support arrearage in full;
- (2) establish a payment plan with the Title IV-D agency to pay the arrearage, ~~and request the activation of which includes~~ an income withholding order under IC 31-16-15-2 **or IC 31-16-15-2.5**; or
- (3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the director of the department of natural resources stating that the obligor is delinquent and directing the director to suspend or revoke a license issued to the obligor by the department of natural resources as provided in IC 14-11-3.

SECTION 69. IC 33-37-5-6, AS AMENDED BY P.L.148-2006, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 6. (a) This section applies to an action in which a final court order requires a person to pay support or

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1 maintenance payments through the clerk or the state central collection  
2 unit.

3 (b) The clerk or the state central collection unit shall collect a fee in  
4 addition to support and maintenance payments. The fee is ~~thirty dollars~~  
5 **(~~\$30~~) fifty-five dollars (\$55)** for each calendar year.

6 (c) The fee required under subsection (b) is due at the time that the  
7 first support or maintenance payment for the calendar year in which the  
8 fee must be paid is due.

9 (d) The clerk may not deduct the fee from a support or maintenance  
10 payment.

11 (e) Except as provided under IC 33-32-4-6 and IC 33-37-7-2(g), if  
12 a fee is collected under this section by the clerk, the clerk shall forward  
13 the fee to the county auditor in accordance with IC 33-37-7-12(a). If a  
14 fee is collected under this section by the central collection unit, the fee  
15 shall be deposited in the state general fund.

16 (f) Income payors required to withhold income under IC 31-16-15  
17 shall pay the annual fee required by subsection (b) through the income  
18 withholding procedures described in ~~IC 31-16-15-1~~. **IC 31-16-15.**

19 SECTION 70. IC 34-26-5-3 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The division of  
21 state court administration shall:

22 (1) develop and adopt:

23 (A) a petition for an order for protection;

24 (B) an order for protection, including:

25 (i) orders issued under this chapter;

26 (ii) ex parte orders;

27 (iii) no contact orders under IC 31 and IC 35; and

28 (iv) forms relating to workplace violence restraining orders  
29 under IC 34-26-6;

30 (C) a confidential form;

31 (D) a notice of modification or extension for an order for  
32 protection, a no contact order, or a workplace violence  
33 restraining order;

34 (E) a notice of termination for an order for protection, a no  
35 contact order, or a workplace violence restraining order; and

36 (F) any other uniform statewide forms necessary to maintain  
37 an accurate registry of orders; and

38 (2) provide the forms under subdivision (1) to the clerk of each  
39 court authorized to issue the orders.

40 (b) In addition to any other required information, a petition for an  
41 order for protection must contain a statement listing each civil or  
42 criminal action involving:

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- (1) either party; or  
 (2) a child of either party.

(c) The following statements must be printed in boldface type or in capital letters on an order for protection, a no contact order, or a workplace violence restraining order:

VIOLATION OF THIS ORDER IS PUNISHABLE BY CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.

IF SO ORDERED BY THE COURT, THE RESPONDENT IS FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S RESIDENCE, EVEN IF INVITED TO DO SO BY THE PETITIONER OR ANY OTHER PERSON. IN NO EVENT IS THE ORDER FOR PROTECTION VOIDED.

PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g), ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF THE PROTECTED PERSON IS:

(A) THE RESPONDENT'S CURRENT OR FORMER SPOUSE;

(B) A CURRENT OR FORMER PERSON WITH WHOM THE RESPONDENT RESIDED WHILE IN AN INTIMATE RELATIONSHIP; OR

(C) A PERSON WITH WHOM THE RESPONDENT HAS A CHILD.

INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

(d) The clerk of the circuit court, or a person or entity designated by the clerk of the circuit court, shall provide to a person requesting an order for protection:

- (1) the forms adopted under subsection (a);  
 (2) all other forms required to petition for an order for protection, including forms:  
     (A) necessary for service; and  
     (B) required under **IC 31-21 (or IC 31-17-3 before its repeal)**; and  
 (3) clerical assistance in reading or completing the forms and

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1 filing the petition.

2 Clerical assistance provided by the clerk or court personnel under this  
3 section does not constitute the practice of law. The clerk of the circuit  
4 court may enter into a contract with a person or another entity to  
5 provide this assistance. A person, other than a person or other entity  
6 with whom the clerk has entered into a contract to provide assistance,  
7 who in good faith performs the duties the person is required to perform  
8 under this subsection is not liable for civil damages that might  
9 otherwise be imposed on the person as a result of the performance of  
10 those duties unless the person commits an act or omission that amounts  
11 to gross negligence or willful and wanton misconduct.

12 (e) A petition for an order for protection must be:

13 (1) verified or under oath under Trial Rule 11; and

14 (2) issued on the forms adopted under subsection (a).

15 (f) If an order for protection is issued under this chapter, the clerk  
16 shall comply with IC 5-2-9.

17 SECTION 71. IC 34-30-2-133.2 IS ADDED TO THE INDIANA  
18 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
19 [EFFECTIVE JULY 1, 2007]: **Sec. 133.2. IC 31-16-15-30**  
20 **(Concerning a Title IV-D agency or an agent of a Title IV-D agency**  
21 **for withholding income paid to an obligee, the Title IV-D agency,**  
22 **or the state central collection unit in accordance with an income**  
23 **withholding order).**

24 SECTION 72. THE FOLLOWING ARE REPEALED [EFFECTIVE  
25 JULY 1, 2007]: IC 31-9-2-23; IC 31-9-2-32; IC 31-9-2-33;  
26 IC 31-9-2-34; IC 31-9-2-35; IC 31-9-2-59; IC 31-9-2-81;  
27 IC 31-16-15-1; IC 31-16-15-3; IC 31-16-15-4; IC 31-16-15-5;  
28 IC 31-16-15-6; IC 31-16-15-7; IC 31-16-15-8; IC 31-16-15-9;  
29 IC 31-16-15-10; IC 31-16-15-11; IC 31-16-15-12; IC 31-16-15-13;  
30 IC 31-16-15-14; IC 31-16-15-15; IC 31-16-15-21; IC 31-16-15-24;  
31 IC 31-17-3.

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## SENATE MOTION

Madam President: I move that Senator Broden be added as coauthor of Senate Bill 329.

LAWSON C

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 COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 329, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 14, delete lines 22 through 32.

Page 17, line 9, after "any" insert "**Title IV-D**".

Page 18, delete lines 28 through 32.

Page 20, line 7, delete "subject to subsection (f),".

Page 20, line 7, after "an" insert "**additional**".

Page 20, line 7, after "amount" insert "**as determined under subsection (f)**".

Page 20, line 14, delete "The amount under subsection (e)(3) may not exceed the" and insert "**If an obligor subject to an income withholding order is in arrears, unless otherwise ordered by a court, the Title IV-D agency or its agent may increase the weekly amount withheld as follows:**

- (1) **If the arrearages are at least five hundred dollars (\$500) and less than three thousand dollars (\$3,000), an additional amount of up to twenty dollars (\$20).**
- (2) **If the arrearages are at least three thousand dollars (\$3,000) and less than five thousand dollars (\$5,000), an additional amount of up to twenty-five dollars (\$25).**
- (3) **If the arrearages are at least five thousand dollars (\$5,000) and less than ten thousand dollars (\$10,000), an additional amount of up to thirty dollars (\$30).**
- (4) **If the arrearages are at least ten thousand dollars (\$10,000) and less than fifteen thousand dollars (\$15,000), an additional amount of up to thirty-five dollars (\$35).**
- (5) **If the arrearages are at least fifteen thousand dollars (\$15,000) and less than twenty thousand dollars (\$20,000), an additional amount of up to forty dollars (\$40).**
- (6) **If the arrearages are at least twenty thousand dollars (\$20,000) and less than twenty-five thousand dollars (\$25,000),**

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an additional amount of up to forty-five dollars (\$45).

(7) If the arrearages are at least twenty-five thousand dollars (\$25,000), an additional amount of up to fifty dollars (\$50).

(g) A court is not bound by and is not required to consider the additional amounts described in subsection (f) when ordering, modifying, or enforcing periodic payments of child support."

Page 20, delete lines 15 through 19.

Page 21, line 31, delete "subject to section 2.5(f) of this chapter,".

Page 21, line 31, after "an" insert **"additional"**.

Page 21, line 31, after "amount" insert **"as determined under section 2.5(f) of this chapter"**.

Page 30, line 18, after "payment" insert ";".

Page 30, line 18, delete "based upon employment".

Page 30, line 19, delete "income;".

Page 30, line 25, delete "child".

Page 31, line 1, after "chapter," insert **"the Title IV-D agency shall send the income payor, by certified mail, a notice of failure to comply. If the income payor fails to forward the money required by an income withholding order within thirty (30) days after receipt of the notice of failure to comply, "**

Page 31, line 4, delete "that receives an income withholding order".

Page 31, delete line 5.

Page 31, line 6, delete "order" and insert **"described in subsection (a)"**.

Page 31, run in lines 4 through 6.

Page 32, line 23, delete "court;" and insert "court".

Page 32, line 24, after "chapter;" insert **"or the Title IV-D agency;"**.

Page 33, line 5, delete "(a)".

Page 33, line 6, delete "an administrative" and insert **"a"**.

Page 33, line 7, after "subpoena" insert **"under Indiana Trial Rule 45"**.

Page 33, delete lines 9 through 16.

Page 37, delete lines 31 through 42.

Page 38, delete lines 1 through 20.

Page 42, line 21, delete "JULY 1, 2007]:" and insert **"JANUARY 1, 2008]:"**.

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Renumber all SECTIONS consecutively.  
and when so amended that said bill do pass.  
(Reference is to SB 329 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

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### COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 329, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 14, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 8. IC 29-3-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) This article applies to the following:

- (1) The business affairs, physical person, and property of every incapacitated person and minor residing in Indiana.
- (2) Property located in Indiana of every incapacitated person and minor residing outside Indiana.
- (3) Property of every incapacitated person or minor, regardless of where the property is located, coming into the control of a fiduciary who is subject to the laws of Indiana.

(b) Except as provided in subsections (c) through (e), the court has exclusive original jurisdiction over all matters concerning the following:

- (1) Guardians.
- (2) Protective proceedings under IC 29-3-4.

(c) A juvenile court has exclusive original jurisdiction over matters relating to the following:

- (1) Minors described in IC 31-30-1-1.
- (2) Matters related to guardians of the person and guardianships of the person described in IC 31-30-1-1(10).

(d) Except as provided in subsection (c), courts with child custody jurisdiction under:

- (1) IC 31-14-10;
- (2) IC 31-17-2-1; or
- (3) **IC 31-21-5 (or IC 31-17-3-3 before its repeal);**

have original and continuing jurisdiction over custody matters relating

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to minors.

(e) A mental health division of a superior court under IC 33-33-49 has jurisdiction concurrent with the court in mental health proceedings under IC 12-26 relating to guardianship and protective orders.

(f) Jurisdiction under this section is not dependent on issuance or service of summons.

SECTION 9. IC 31-9-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. Except as otherwise provided, the definitions in this article do not apply to the following:

- (1) IC 31-11-3.
- (2) **IC 31-21 (or IC 31-17-3 before its repeal).**
- (3) IC 31-18.
- (4) IC 31-19-29.
- (5) IC 31-37-23.

SECTION 10. IC 31-9-2-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.3. "Abandoned", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-2."**

Page 14, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 12. IC 31-9-2-13, AS AMENDED BY P.L.145-2006, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) "Child", for purposes of IC 31-15, IC 31-16 (excluding IC 31-16-12.5), and IC 31-17, means a child or children of both parties to the marriage. The term includes the following:

- (1) Children born out of wedlock to the parties.
- (2) Children born or adopted during the marriage of the parties.
- (b) "Child", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-2.
- (c) "Child", for purposes of IC 31-19-5, includes an unborn child.
- (d) "Child", for purposes of the juvenile law, means:
  - (1) a person who is less than eighteen (18) years of age;
  - (2) a person:
    - (A) who is eighteen (18), nineteen (19), or twenty (20) years of age; and
    - (B) who either:
      - (i) is charged with a delinquent act committed before the person's eighteenth birthday; or
      - (ii) has been adjudicated a child in need of services before the person's eighteenth birthday; or
  - (3) a person:

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(A) who is alleged to have committed an act that would have been murder if committed by an adult; and

(B) who was less than eighteen (18) years of age at the time of the alleged act.

(e) "Child", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

(f) "Child", for purposes of IC 31-16-12.5, means an individual to whom child support is owed under:

(1) a child support order issued under IC 31-14-10 or IC 31-16-6; or

(2) any other child support order that is enforceable under IC 31-16-12.5.

(g) "Child", for purposes of IC 31-33-24, has the meaning set forth in IC 31-33-24-1.

(h) "Child", for purposes of IC 31-33-25, has the meaning set forth in IC 31-33-25-1.

(i) "Child", for purposes of IC 31-27, means an individual who is less than eighteen (18) years of age.

**(j) "Child", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-3.**

SECTION 13. IC 31-9-2-16.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 16.8. "Child custody determination", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-4.**

SECTION 14. IC 31-9-2-16.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 16.9. "Child custody proceeding", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-5.**

SECTION 15. IC 31-9-2-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 20.5. "Commencement", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-6.**

SECTION 16. IC 31-9-2-27, AS AMENDED BY P.L.145-2006, SECTION 185, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 27. (a) "Court", for purposes of IC 31-15, IC 31-16, and IC 31-17, means the circuit, superior, or other courts of Indiana upon which jurisdiction to enter dissolution decrees**

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has been or may be conferred.

(b) "Court", for purposes of IC 31-16-15, refers to the court having jurisdiction over child support orders.

(c) "Court", for purposes of IC 31-37-23, has the meaning set forth in IC 31-37-23-3.

(d) "Court", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

(e) "Court", for purposes of IC 31-27, means a circuit or superior court.

**(f) "Court", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-7.**

SECTION 17. IC 31-9-2-53 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 53. (a) "Home state", for purposes of the Uniform Child Custody Jurisdiction ~~Law~~ Act under ~~IC 31-17-3~~, **IC 31-21**, has the meaning set forth in ~~IC 31-17-3-2~~. **IC 31-21-2-8.**

(b) "Home state", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-5.

SECTION 18. IC 31-9-2-59.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 59.5. "Initial determination", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-9.**

SECTION 19. IC 31-9-2-64.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 64.5. "Issuing court", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-10.**

SECTION 20. IC 31-9-2-65 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 65. **(a) "Issuing state", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-11.**

**(b) "Issuing state", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-11.**

SECTION 21. IC 31-9-2-80.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 80.8. "Modification", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-12."**

Page 14, between lines 28 and 29, begin a new paragraph and insert:

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"SECTION 23. IC 31-9-2-89, AS AMENDED BY P.L.145-2006, SECTION 204, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 89. (a) "Person", for purposes of the juvenile law, means:

- (1) a human being;
- (2) a corporation;
- (3) a limited liability company;
- (4) a partnership;
- (5) an unincorporated association; or
- (6) a governmental entity.

(b) "Person", for purposes of section 44.5 of this chapter, means an adult or a minor.

(c) "Person", for purposes of IC 31-27, means an individual who is at least twenty-one (21) years of age, a corporation, a partnership, a voluntary association, or other entity.

**(d) "Person", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-13.**

SECTION 24. IC 31-9-2-90 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 90. "Person acting as a parent", for purposes of the Uniform Child Custody Jurisdiction ~~Law~~ Act under ~~IC 31-17-3~~, **IC 31-21**, has the meaning set forth in ~~IC 31-17-3-2~~. **IC 31-21-2-14.**

SECTION 25. IC 31-9-2-91 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 91. (a) "Petitioner" or "obligee", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-14.

**(b) "Petitioner", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-15.**

SECTION 26. IC 31-9-2-92 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 92. "Physical custody", for purposes of the Uniform Child Custody Jurisdiction ~~Law~~ Act under ~~IC 31-17-3~~, **IC 31-21**, has the meaning set forth in ~~IC 31-17-3-2~~. **IC 31-21-2-16.**

SECTION 27. IC 31-9-2-102.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 102.7. "Record", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-17.**

SECTION 28. IC 31-9-2-110 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 110. (a) "Respondent"

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or "obligor", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-15.

**(b) "Respondent", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-18.**

SECTION 29. IC 31-9-2-119 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 119. (a) "State", for purposes of the Uniform Child Custody Jurisdiction ~~Law~~ Act under ~~IC 31-17-3, IC 31-21~~, has the meaning set forth in ~~IC 31-17-3-2, IC 31-21-2-19~~.

(b) "State", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-21.

(c) "State", for purposes of the Interstate Compact on Adoption Assistance under IC 31-19-29, has the meaning set forth in IC 31-19-29-2.

(d) "State", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1."

Page 15, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 32. IC 31-9-2-130.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 130.5. "Tribe", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-20.**

SECTION 33. IC 31-9-2-135, AS ADDED BY P.L.145-2006, SECTION 218, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 135. (a) "Warrant", for purposes of IC 31-25-3, IC 31-25-4, IC 31-26-2, IC 31-26-3, IC 31-28-1, IC 31-28-2, and IC 31-28-3, means an instrument that is:

- (1) the equivalent of a money payment; and
- (2) immediately convertible into cash by the payee for the full face amount of the instrument.

**(b) "Warrant", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-21."**

Page 17, line 26, delete "finds by clear and convincing evidence" and insert **"issues a written finding"**.

Page 24, line 2, delete ";" and insert ".".

Page 33, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 61. IC 31-17-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. Jurisdiction of a child custody proceeding under:

- (1) this chapter, IC 31-17-4, IC 31-17-6, and IC 31-17-7; or

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(2) **IC 31-21 (or IC 31-17-3 before its repeal);**  
shall be determined under **IC 31-21 (or IC 31-17-3 before its repeal).**

SECTION 62. IC 31-17-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. If the marriage of the child's parents has been dissolved in another state, the child's maternal or paternal grandparent may seek visitation rights if:

- (1) the custody decree entered in the action for dissolution of marriage does not bind the grandparent under **IC 31-21-3-1 (or IC 31-17-3-12 before its repeal);** and
- (2) an Indiana court would have jurisdiction under **IC 31-21-5-1 (or IC 31-17-3-3 before its repeal), IC 31-21-5-2, or IC 31-21-5-3 (or IC 31-17-3-14 before its repeal)** to grant visitation rights to the grandparent in a modification decree.

SECTION 63. IC 31-21 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

**ARTICLE 21. UNIFORM CHILD CUSTODY JURISDICTION ACT**

**Chapter 1. Applicability**

**Sec. 1. This article does not apply to:**

- (1) an adoption proceeding; or
- (2) a proceeding pertaining to the authorization of emergency medical care for a child.

**Sec. 2. (a) A child custody proceeding pertaining to an Indian child, as defined in the Indian Child Welfare Act (25 U.S.C. 1901 et seq.), is not subject to this article to the extent that it is governed by the Indian Child Welfare Act.**

**(b) An Indiana court shall treat a tribe as if the tribe were a state of the United States for purposes of applying IC 31-21-3 through IC 31-21-5.**

**(c) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this article must be recognized and enforced under IC 31-21-6.**

**Sec. 3. (a) An Indiana court shall treat a foreign country as if the foreign country were a state of the United States for purposes of applying IC 31-21-3 through IC 31-21-5.**

**(b) Except as otherwise provided in subsection (c), a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standard of this article must be recognized and enforced under IC 31-21-6.**



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(c) An Indiana court need not apply this article if the child custody law of a foreign country violates the fundamental principles of human rights.

## **Chapter 2. Definitions**

**Sec. 1.** The definitions in this chapter apply throughout this article.

**Sec. 2.** "Abandoned" means left without provision for reasonable and necessary care or supervision.

**Sec. 3.** "Child" means a person who is less than eighteen (18) years of age.

**Sec. 4. (a)** "Child custody determination" means a judgment, decree, or other court order providing for:

- (1) legal custody;
- (2) physical custody; or
- (3) visitation;

with respect to a child.

(b) The term does not include an order relating to child support or other monetary obligation of a person.

**Sec. 5. (a)** "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for:

- (1) dissolution of marriage or legal separation;
- (2) child abuse or neglect;
- (3) guardianship;
- (4) paternity;
- (5) termination of parental rights; and
- (6) protection from domestic violence;

in which the issue of child custody or visitation may appear.

(b) The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement of child custody under IC 31-21-6.

**Sec. 6.** "Commencement" means the filing of the first pleading in a proceeding.

**Sec. 7.** "Court" means an entity authorized by state law to establish, enforce, or modify a child custody determination.

**Sec. 8.** "Home state" means the state in which a child lived with:

- (1) a parent; or
- (2) a person acting as a parent;

for at least six (6) consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six (6) months of age, the term means the state in which the child lived since birth with a parent or person acting as a

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parent. A period of temporary absence of the parent or person acting as a parent is part of the period.

Sec. 9. "Initial determination" means the first child custody determination concerning a child.

Sec. 10. "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this article.

Sec. 11. "Issuing state" means the state in which a child custody determination is made.

Sec. 12. "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, regardless of whether the determination is made by the court that made the previous determination.

Sec. 13. "Person" means an individual, a corporation, a business trust, an estate, a trust, a partnership, a limited liability company, an association, a joint venture, a government, a governmental subdivision, an agency or instrumentality, a public corporation, or any other legal or commercial entity.

Sec. 14. "Person acting as a parent" means a person, other than a parent, who:

- (1) has physical custody of the child or has had physical custody for a period of at least six (6) consecutive months, including a temporary absence, within one (1) year immediately before the commencement of a child custody proceeding; and
- (2) has been awarded legal custody by a court or claims a right to legal custody under Indiana law.

Sec. 15. "Petitioner" means a person who seeks enforcement of:

- (1) an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction; or
- (2) a child custody determination.

Sec. 16. "Physical custody" means the physical care and supervision of a child.

Sec. 17. "Record" means information that is:

- (1) inscribed on a tangible medium; or
- (2) stored in an electronic or other medium;

and that is retrievable in a perceivable form.

Sec. 18. "Respondent" means a person against whom a proceeding has been commenced for enforcement of:

- (1) an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction; or

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(2) a child custody determination.

**Sec. 19. "State"** means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or a territory or an insular possession subject to the jurisdiction of the United States.

**Sec. 20. "Tribe"** means an Indian tribe or band or Alaskan Native village that is:

- (1) recognized by federal law; or
- (2) formally acknowledged by a state.

**Sec. 21. "Warrant"** means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

### **Chapter 3. Procedural Considerations**

**Sec. 1.** A child custody determination made by an Indiana court that has jurisdiction under this article binds each person who has:

- (1) been served with notice in accordance with Indiana law;
- (2) been notified in accordance with section 3 of this chapter;
- or
- (3) submitted to the jurisdiction of the court;

and who has been given an opportunity to be heard. A child custody determination described in this section is conclusive as to the decided issues of law and fact except to the extent the determination is modified.

**Sec. 2.** If a question of existence or exercise of jurisdiction under this article is raised in a child custody proceeding, the question, on a request of a party, must be given priority on the court's calendar and handled expeditiously.

**Sec. 3. (a)** Notice required for the exercise of jurisdiction when a person is outside Indiana may be given in a manner prescribed by:

- (1) Indiana law for service of process; or
- (2) the law of the state in which the service is made.

Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

**(b)** Proof of service may be made in the manner prescribed by:

- (1) Indiana law; or
- (2) the law of the state in which the service is made.

**(c)** Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

**Sec. 4.** A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a

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proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in Indiana for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

**Sec. 5.** A person who is subject to personal jurisdiction in Indiana on a basis other than physical presence is not immune from service of process in Indiana. A person present in Indiana who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

**Sec. 6.** The immunity granted by section 4 of this chapter does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this article committed by an individual while present in Indiana.

#### **Chapter 4. Communication and Cooperation Between Courts**

**Sec. 1.** An Indiana court may communicate with a court in another state concerning a proceeding arising under this article.

**Sec. 2.** The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, the parties must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

**Sec. 3.** Communication between courts regarding:

- (1) schedules;
- (2) calendars;
- (3) court records; and
- (4) similar matters;

may occur without informing the parties. A record need not be made of the communication.

**Sec. 4.** A record must be made of a communication under sections 1 and 2 of this chapter. The parties must be:

- (1) promptly informed of the communication; and
- (2) granted access to the record.

**Sec. 5.** In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in Indiana for testimony taken in another state. The court on its own motion may:

- (1) order that the testimony of a person be taken in another state; and
- (2) prescribe the manner in which and the terms on which the

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testimony is taken.

**Sec. 6.** An Indiana court may permit a person residing in another state to be deposed or to testify by:

- (1) telephone;
- (2) audiovisual means; or
- (3) other electronic means;

before a designated court or another location in that state. An Indiana court shall cooperate with courts in other states in designating an appropriate location for the deposition or testimony.

**Sec. 7.** Documentary evidence transmitted from another state to an Indiana court by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

**Sec. 8.** An Indiana court may request the appropriate court of another state to do the following:

- (1) Hold an evidentiary hearing.
- (2) Order a person to produce or give evidence under the procedures of the other state.
- (3) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding.
- (4) Forward to the Indiana court:
  - (A) a certified copy of the transcript of the record of the hearing;
  - (B) the evidence otherwise presented; and
  - (C) an evaluation prepared in compliance with the request.
- (5) Order:
  - (A) a party to a child custody proceeding; or
  - (B) any person having physical custody of the child;
 to appear in the proceeding with or without the child.

**Sec. 9.** On the request of a court of another state, an Indiana court may:

- (1) hold a hearing; and
- (2) enter an order described in section 8 of this chapter.

**Sec. 10.** Travel and other necessary and reasonable expenses incurred under sections 8 and 9 of this chapter may be assessed against the parties according to Indiana law.

**Sec. 11.** An Indiana court shall preserve the:

- (1) pleadings;
- (2) orders;
- (3) decrees;
- (4) records of hearings;

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- (5) evaluations; and
- (6) other pertinent records;

with respect to a child custody proceeding until the child becomes eighteen (18) years of age. On appropriate request by a court or law enforcement official of another state, the Indiana court shall forward a certified copy of the records to the court of the other state.

#### **Chapter 5. Jurisdiction**

**Sec. 1. (a)** Except as otherwise provided in section 4 of this chapter, an Indiana court has jurisdiction to make an initial child custody determination only if one (1) of the following applies:

- (1) Indiana is the home state of the child on the date of the commencement of the proceeding or was the home state of the child within six (6) months before the commencement of the proceeding, and the child is absent from Indiana but a parent or person acting as a parent continues to live in Indiana.
- (2) A court of another state does not have jurisdiction under subdivision (1) or a court of the home state of the child has declined to exercise jurisdiction on the ground that Indiana is the more appropriate forum under section 8 or 9 of this chapter and:

(A) the child and the child's parents, or the child and at least one (1) parent or person acting as a parent, have a significant connection with Indiana other than mere physical presence; and

(B) substantial evidence is available in Indiana concerning the child's care, protection, training, and personal relationships.

- (3) All courts having jurisdiction under subdivision (1) or (2) have declined to exercise jurisdiction on the ground that an Indiana court is the more appropriate forum to determine the custody of the child under section 8 or 9 of this chapter.
- (4) No court of any other state would have jurisdiction under the criteria specified in subdivision (1), (2), or (3).

(b) The jurisdictional requirements described in this section provide the exclusive jurisdictional basis for making a child custody determination by an Indiana court.

(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

**Sec. 2. (a)** Except as otherwise provided in section 4 of this chapter, an Indiana court that has made a child custody

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determination consistent with section 1 or 3 of this chapter has exclusive, continuing jurisdiction over the determination until:

(1) an Indiana court determines that:

(A) neither:

(i) the child;

(ii) the child's parents; nor

(iii) any person acting as a parent;

has a significant connection with Indiana; and

(B) substantial evidence is no longer available in Indiana concerning the child's care, protection, training, and personal relationships; or

(2) an Indiana court or a court of another state determines that:

(A) the child;

(B) the child's parents; and

(C) any person acting as a parent;

do not presently reside in Indiana.

(b) An Indiana court that:

(1) has made a child custody determination; and

(2) does not have exclusive, continuing jurisdiction under this section;

may modify the determination only if the Indiana court has jurisdiction to make an initial determination under section 1 of this chapter.

Sec. 3. Except as provided in section 4 of this chapter, an Indiana court may not modify a child custody determination made by a court of another state unless an Indiana court has jurisdiction to make an initial determination under section 1(a)(1) or 1(a)(2) of this chapter and:

(1) the court of the other state determines that:

(A) it no longer has exclusive, continuing jurisdiction under section 2 of this chapter; or

(B) an Indiana court would be a more convenient forum under section 8 of this chapter; or

(2) an Indiana court or a court of the other state determines that:

(A) the child;

(B) the child's parents; and

(C) any person acting as a parent;

do not presently reside in the other state.

Sec. 4. (a) An Indiana court has temporary emergency jurisdiction if the child is present in Indiana and:

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- (1) the child has been abandoned; or
- (2) it is necessary in an emergency to protect the child because:

- (A) the child;
- (B) the child's sibling; or
- (C) the child's parent;

is subjected to or threatened with mistreatment or abuse.

(b) If:

- (1) there is no previous child custody determination that is entitled to be enforced under this article; and
- (2) a child custody proceeding has not been commenced in a court of a state having jurisdiction under sections 1 through 3 of this chapter;

a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under sections 1 through 3 of this chapter.

(c) If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 1 through 3 of this chapter, a child custody determination made under this section becomes a final determination, and, if it so provides, Indiana becomes the home state of the child.

(d) If:

- (1) there is a previous child custody determination that is entitled to be enforced under this article; or
- (2) a child custody proceeding has been commenced in a court of a state having jurisdiction under sections 1 through 3 of this chapter;

an order issued by an Indiana court under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 1 through 3 of this chapter.

(e) The order issued in Indiana remains in effect until an order is obtained from the other state within the period specified or the period expires.

(f) An Indiana court that has been asked to make a child custody determination under this section, on being informed that:

- (1) a child custody proceeding has been commenced in; or
- (2) a child custody determination has been made by;

a court of a state having jurisdiction under sections 1 through 3 of this chapter, shall immediately communicate with the other court.

(g) An Indiana court that is exercising jurisdiction under sections 1 through 3 of this chapter, on being informed that:

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(1) a child custody proceeding has been commenced in; or  
 (2) a child custody determination has been made by;  
 a court of another state under a statute similar to this section, shall immediately communicate with the court of the other state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

**Sec. 5. (a)** Before a child custody determination is made under this article, notice and an opportunity to be heard in accordance with the standards of IC 31-21-3-3 must be given to the following persons:

- (1) Persons entitled to notice under Indiana law as in child custody proceedings between residents of Indiana.
- (2) A parent whose parental rights have not been previously terminated.
- (3) Any person having physical custody of the child.

(b) This article does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(c) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this article are governed by Indiana law in the same manner as in child custody proceedings between Indiana residents.

**Sec. 6. (a)** Except as otherwise provided in section 4 of this chapter, an Indiana court may not exercise its jurisdiction under this article if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this article, unless the proceeding:

- (1) has been terminated; or
- (2) is stayed by the court of the other state because an Indiana court is a more convenient forum under section 8 of this chapter.

(b) Except as otherwise provided in section 4 of this chapter, an Indiana court, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties under sections 10 through 13 of this chapter. If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this article, the Indiana court shall:

- (1) stay its proceeding; and

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(2) communicate with the court of the other state.

If the court of the state having jurisdiction substantially in accordance with this article does not determine that the Indiana court is a more appropriate forum, the Indiana court shall dismiss the proceeding.

**Sec. 7.** In a proceeding to modify a child custody determination, an Indiana court shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the Indiana court may:

- (1) stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;
- (2) enjoin the parties from continuing with the proceeding for enforcement; or
- (3) proceed with the modification under conditions the Indiana court considers appropriate.

**Sec. 8. (a)** An Indiana court that has jurisdiction under this article to make a child custody determination may decline to exercise its jurisdiction at any time if the Indiana court determines that:

- (1) the Indiana court is an inconvenient forum under the circumstances; and
- (2) a court of another state is a more appropriate forum.

The issue of inconvenient forum may be raised on motion of a party, the court's own motion, or request of another court.

(b) Before determining whether an Indiana court is an inconvenient forum, the Indiana court shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the Indiana court shall allow the parties to submit information and shall consider the relevant factors, including the following:

- (1) Whether domestic violence has occurred and is likely to continue in the future and which state is best able to protect the parties and the child.
- (2) The length of time the child has resided outside Indiana.
- (3) The distance between the Indiana court and the court in the state that would assume jurisdiction.
- (4) The relative financial circumstances of the parties.
- (5) An agreement of the parties as to which state should assume jurisdiction.
- (6) The nature and location of the evidence required to resolve

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the pending litigation, including the child's testimony.

(7) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence.

(8) The familiarity of the court of each state with the facts and issues in the pending litigation.

(c) If an Indiana court determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, the Indiana court:

(1) shall stay the proceedings on condition that a child custody proceeding be promptly commenced in another designated state; and

(2) may impose any other condition the Indiana court considers just and proper.

(d) An Indiana court may decline to exercise its jurisdiction under this article if a child custody determination is incidental to an action for dissolution of marriage or another proceeding while still retaining jurisdiction over the dissolution of marriage or other proceeding.

Sec. 9. (a) Except as otherwise provided in section 4 of this chapter or by any other Indiana law, if an Indiana court has jurisdiction under this article because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(1) the child's parents and any person acting as a parent have acquiesced in the exercise of jurisdiction;

(2) a court of the state otherwise having jurisdiction under sections 1 through 3 of this chapter determines that Indiana is a more appropriate forum under section 8 of this chapter; or

(3) no court of any other state would have jurisdiction under the criteria specified in sections 1 through 3 of this chapter.

(b) If an Indiana court declines to exercise its jurisdiction under subsection (a), the Indiana court may fashion an appropriate remedy to:

(1) ensure the safety of the child; and

(2) prevent a repetition of the unjustifiable conduct;

including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under sections 1 through 3 of this chapter.

(c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction under subsection (a), the court

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shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses, including:

- (1) costs;
- (2) communication expenses;
- (3) attorney's fees;
- (4) investigative fees;
- (5) expenses for witnesses;
- (6) travel expenses; and
- (7) child care during the course of the proceedings;

unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against the state unless authorized by law other than this article.

**Sec. 10. (a)** Subject to local law providing for the confidentiality of procedures, addresses, and other identifying information in a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall provide information, under oath, regarding:

- (1) the child's present address or whereabouts and the places where the child has lived during the immediately preceding five (5) years; and
- (2) the names and present addresses of the persons with whom the child has lived during that period.

**(b)** The pleading or affidavit must state the following:

- (1) Whether the party has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify:
  - (A) the court;
  - (B) the case number; and
  - (C) the date of the child custody determination, if any.
- (2) Whether the party knows of a proceeding that may affect the current proceeding, including proceedings for enforcement and proceedings relating to:
  - (A) domestic violence;
  - (B) protective orders;
  - (C) termination of parental rights; and
  - (D) adoptions;

and, if so, identify the court, the case number, and the nature of the proceeding.

(3) Whether the party knows the names and addresses of a person not a party to the proceeding who:

- (A) has physical custody of the child; or

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(B) claims rights of legal custody or physical custody of, or visitation with, the child;

and, if so, the names and addresses of the persons.

(c) If the information required by subsection (a) is not furnished, the court, on motion of a party or its own motion, may stay the proceeding until the information is furnished.

Sec. 11. If the declaration as to any of the items described in section 10(b)(1) through 10(b)(3) of this chapter is in the affirmative, the party shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to:

- (1) the court's jurisdiction; and
- (2) the disposition of the case.

Sec. 12. Each party has a continuing duty to inform the court of a proceeding in Indiana or any other state that may affect the current proceeding.

Sec. 13. If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court:

- (1) takes into consideration the health, safety, or liberty of the party or child; and
- (2) determines that the disclosure is in the interest of justice.

Sec. 14. (a) In a child custody proceeding in Indiana, the court may order a party to the proceeding who is in Indiana to appear before the court in person with or without the child. The court may order any person who:

- (1) is in Indiana; and
- (2) has physical custody or control of the child;

to appear in person with the child.

(b) If a party to a child custody proceeding whose presence is desired by the court is outside Indiana, the court may order that a notice given under IC 31-21-3-3 include a statement:

- (1) directing the party to appear in person with or without the child; and
- (2) informing the party that failure to appear may result in a decision adverse to the party.

(c) The court may enter an order necessary to ensure the safety of:

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- (1) the child; and
- (2) any person ordered to appear under this section.

(d) If a party to a child custody proceeding who is outside Indiana:

- (1) is directed to appear under subsection (b); or
- (2) desires to appear personally before the court with or without the child;

the court may require another party to pay reasonable and necessary travel and other expenses of the party who appears and of the child.

#### **Chapter 6. Enforcement**

**Sec. 1.** Under this chapter, an Indiana court may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

**Sec. 2. (a)** An Indiana court shall recognize and enforce a child custody determination of a court of another state if the court of another state exercised jurisdiction in substantial conformity with this article or the determination:

- (1) was made under factual circumstances meeting the jurisdictional standards of this article; and
- (2) has not been modified in accordance with this article.

**(b)** An Indiana court may use a remedy available under any other Indiana law to enforce a child custody determination made by a court of another state. The remedies provided in this article:

- (1) are cumulative; and
- (2) do not affect the availability of other remedies to enforce a child custody determination.

**Sec. 3. (a)** An Indiana court that does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

- (1) a visitation schedule made by a court of another state; or
- (2) the visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

**(b)** If an Indiana court makes an order under subsection (a)(2), the Indiana court shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in IC 31-21-5. The order remains in effect until:

- (1) an order is obtained from the court having jurisdiction; or
- (2) the period expires.

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**Sec. 4. (a) A child custody determination issued by a court of another state may be registered in Indiana, with or without a simultaneous request for enforcement, by sending the following to the appropriate Indiana court:**

- (1) A letter or other document requesting registration.**
- (2) Two (2) copies, including one (1) certified copy, of the determination sought to be registered and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified.**
- (3) Except as otherwise provided in section 13 of this chapter:**
  - (A) the name and address of the person seeking registration; and**
  - (B) the name of a parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.**

**(b) On receipt of the documents required by subsection (a), the registering court shall:**

- (1) cause the determination to be filed as a foreign judgment, together with one (1) copy of the accompanying documents and information, regardless of their form; and**
- (2) serve notice on each person named under subsection (a)(3) and provide the person with an opportunity to contest the registration in accordance with this section.**

**(c) The notice required by subsection (b)(2) must state the following:**

- (1) A registered determination is enforceable as of the date of the registration in the same manner as a child custody determination issued by an Indiana court.**
- (2) A hearing to contest the validity of the registered determination must be requested not more than twenty (20) days after service of notice.**
- (3) Failure to contest the registration shall:**
  - (A) result in confirmation of the child custody determination; and**
  - (B) preclude further contest of that determination with respect to a matter that may have otherwise been asserted.**

**Sec. 5. (a) A person seeking to contest the validity of a registered order must request a hearing not more than twenty (20) days after service of the notice. At the hearing, the court shall confirm the registered order unless the person contesting the registration establishes that:**

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(1) the issuing court did not have jurisdiction under IC 31-21-5;

(2) the child custody determination sought to be registered has been:

(A) vacated;

(B) stayed; or

(C) modified;

by a court having jurisdiction to do so under IC 31-21-5; or

(3) the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of IC 31-21-3-3 in the proceedings before the court that issued the order for which registration is sought.

(b) If a timely request for a hearing to contest the validity of the registration is not made:

(1) the registration is confirmed as a matter of law; and

(2) the person requesting registration and each person served must be notified of the confirmation.

(c) Confirmation of a registered order whether:

(1) by operation of law; or

(2) after notice and hearing;

precludes further contest of the order with respect to a matter that may have been asserted at the time of registration.

**Sec. 6. (a)** An Indiana court may grant a relief normally available under Indiana law to enforce a registered child custody determination made by a court of another state.

(b) An Indiana court shall recognize and enforce, but may not modify, except in accordance with IC 31-21-5, a registered child custody determination of a court of another state.

**Sec. 7.** If a proceeding for enforcement under this article is commenced in an Indiana court and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under IC 31-21-5, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

**Sec. 8. (a)** A petition under this article must be verified. Certified copies of:

(1) the orders sought to be enforced; and

(2) an order confirming registration;

must be attached to the petition. A copy of a certified copy of an

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order may be attached instead of the original.

(b) A petition for enforcement of a child custody determination must state the following:

(1) Whether the court that issued the determination identified the jurisdictional basis it relied on in exercising jurisdiction and, if so, what the basis was.

(2) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this article and, if so, identify:

(A) the court;

(B) the case number; and

(C) the nature of the proceeding.

(3) Whether a proceeding has been commenced that may affect the current proceeding, including proceedings relating to:

(A) domestic violence;

(B) protective orders;

(C) termination of parental rights; and

(D) adoptions;

and, if so, identify the court, the case number, and the nature of the proceeding.

(4) The present physical address of the child and the respondent, if known.

(5) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

(6) If the child custody determination has been registered and confirmed under sections 4 and 5 of this chapter, the date and place of registration.

**Sec. 9. (a) On the filing of a petition, the court:**

(1) shall issue an order directing the respondent to appear in person with or without the child at a hearing; and

(2) may enter an order necessary to ensure the safety of the parties and the child.

The hearing must be held on the next judicial day after service of the order unless holding the hearing on that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(b) An order issued under subsection (a) must state the time and

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place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under section 15 of this chapter and may schedule a hearing to determine whether further relief is appropriate unless the respondent appears and establishes that:

- (1) the child custody determination has not been registered and confirmed under sections 4 and 5 of this chapter and that:
  - (A) the issuing court did not have jurisdiction under IC 31-21-5;
  - (B) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction under IC 31-21-5; or
  - (C) the respondent was entitled to notice, but notice was not given in accordance with the standards of IC 31-21-3-3 in the proceedings before the court that issued the order for which enforcement is sought; or
- (2) the child custody determination for which enforcement is sought was registered and confirmed under sections 4 and 5 of this chapter but has been vacated, stayed, or modified by a court of a state having jurisdiction under IC 31-21-5.

Sec. 10. Except as otherwise provided in section 13 or 14 of this chapter, the petition and order must be served, by a method authorized by Indiana law, on the respondent and any person who has physical custody of the child.

Sec. 11. Unless the court issues a temporary emergency order under IC 31-21-5-4 on a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

- (1) the child custody determination has not been registered and confirmed under sections 4 and 5 of this chapter and that:
  - (A) the issuing court did not have jurisdiction under IC 31-21-5;
  - (B) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under IC 31-21-5; or
  - (C) the respondent was entitled to notice, but notice was not given in accordance with the standards of IC 31-21-3-3 in the proceedings before the court that issued the order for which enforcement is sought; or
- (2) the child custody determination for which enforcement is

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sought was registered and confirmed under sections 4 and 5 of this chapter but has been vacated, stayed, or modified by a court of a state having jurisdiction under IC 31-21-5.

**Sec. 12. (a) The court:**

- (1) shall award the fees, costs, and expenses authorized under section 15 of this chapter; and
- (2) may grant additional relief, including a request for the assistance of law enforcement officials, and set a hearing to determine whether additional relief is appropriate.

(b) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(c) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this chapter.

**Sec. 13. (a) On the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to:**

- (1) suffer serious physical harm; or
- (2) be removed from Indiana.

(b) If the court, on the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from Indiana, the court may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless hearing the petition on that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by section 8(b) of this chapter.

**Sec. 14. (a) A warrant to take physical custody of a child must:**

- (1) recite the facts on which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;
- (2) direct law enforcement officers to take physical custody of the child immediately; and
- (3) provide for the placement of the child pending final relief.

(b) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(c) A warrant to take physical custody of a child is enforceable throughout Indiana. If the court finds on the basis of the testimony

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of the petitioner or other witness that a less intrusive remedy is not effective, the court may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(d) The court may impose conditions on the placement of a child to ensure the appearance of the child and the child's custodian.

**Sec. 15. (a)** The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including:

- (1) costs;
- (2) communication expenses;
- (3) attorney's fees;
- (4) investigative fees;
- (5) expenses for witnesses;
- (6) travel expenses; and
- (7) child care during the course of the proceedings;

unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(b) The court may not assess fees, costs, or expenses against a state unless authorized by law other than this article.

**Sec. 16.** An Indiana court shall accord full faith and credit to an order issued by another state and consistent with this article that enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction under IC 31-21-5.

**Sec. 17.** An appeal may be taken from a final order in a proceeding under this article in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under IC 31-21-5-4, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

**Sec. 18. (a)** In a case arising under this article or involving the Hague Convention on the Civil Aspects of International Child Abduction, a prosecuting attorney or other appropriate public official may take a lawful action, including resorting to a proceeding under this article or any other available civil proceeding, to locate a child, obtain the return of a child, or enforce a child custody determination if there is:

- (1) an existing child custody determination;
- (2) a request to do so from a court in a pending child custody proceeding;

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(3) a reasonable belief that a criminal statute has been violated; or

(4) a reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(b) A prosecuting attorney or other appropriate public official acting under this section acts on behalf of the court and may not represent a party.

**Sec. 19.** At the request of a prosecuting attorney or other appropriate public official acting under section 18 of this chapter, a law enforcement officer may:

(1) take a lawful action reasonably necessary to locate a child or a party; and

(2) assist a prosecuting attorney or appropriate public official with responsibilities under section 18 of this chapter.

**Sec. 20.** If the respondent is not the prevailing party, the court may assess against the respondent the direct expenses and costs incurred by the prosecuting attorney or other appropriate public official and law enforcement officers under section 18 or 19 of this chapter.

#### **Chapter 7. Miscellaneous Provisions**

**Sec. 1.** In applying and construing this article, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**Sec. 2.** If a provision of this article or its application to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

**Sec. 3.** A motion or other request for relief made:

(1) in a child custody proceeding; or

(2) to enforce a child custody determination;

that was commenced before July 1, 2007, is governed by the law in effect at the time the motion or other request was made."

Page 34, line 28, delete "IC 31-25-4-19.5," and insert "section 19.5 of this chapter,".

Page 42, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 70. IC 34-26-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The division of state court administration shall:

(1) develop and adopt:

(A) a petition for an order for protection;

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- (B) an order for protection, including:
  - (i) orders issued under this chapter;
  - (ii) ex parte orders;
  - (iii) no contact orders under IC 31 and IC 35; and
  - (iv) forms relating to workplace violence restraining orders under IC 34-26-6;
- (C) a confidential form;
- (D) a notice of modification or extension for an order for protection, a no contact order, or a workplace violence restraining order;
- (E) a notice of termination for an order for protection, a no contact order, or a workplace violence restraining order; and
- (F) any other uniform statewide forms necessary to maintain an accurate registry of orders; and
- (2) provide the forms under subdivision (1) to the clerk of each court authorized to issue the orders.
- (b) In addition to any other required information, a petition for an order for protection must contain a statement listing each civil or criminal action involving:
  - (1) either party; or
  - (2) a child of either party.
- (c) The following statements must be printed in boldface type or in capital letters on an order for protection, a no contact order, or a workplace violence restraining order:
 

**VIOLATION OF THIS ORDER IS PUNISHABLE BY CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.**  
**IF SO ORDERED BY THE COURT, THE RESPONDENT IS FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S RESIDENCE, EVEN IF INVITED TO DO SO BY THE PETITIONER OR ANY OTHER PERSON. IN NO EVENT IS THE ORDER FOR PROTECTION VOIDED.**  
**PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g), ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF THE PROTECTED PERSON IS:**  
**(A) THE RESPONDENT'S CURRENT OR FORMER**

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SPOUSE;

(B) A CURRENT OR FORMER PERSON WITH WHOM THE RESPONDENT RESIDED WHILE IN AN INTIMATE RELATIONSHIP; OR

(C) A PERSON WITH WHOM THE RESPONDENT HAS A CHILD.

INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

(d) The clerk of the circuit court, or a person or entity designated by the clerk of the circuit court, shall provide to a person requesting an order for protection:

- (1) the forms adopted under subsection (a);
- (2) all other forms required to petition for an order for protection, including forms:
  - (A) necessary for service; and
  - (B) required under **IC 31-21 (or IC 31-17-3 before its repeal)**; and
- (3) clerical assistance in reading or completing the forms and filing the petition.

Clerical assistance provided by the clerk or court personnel under this section does not constitute the practice of law. The clerk of the circuit court may enter into a contract with a person or another entity to provide this assistance. A person, other than a person or other entity with whom the clerk has entered into a contract to provide assistance, who in good faith performs the duties the person is required to perform under this subsection is not liable for civil damages that might otherwise be imposed on the person as a result of the performance of those duties unless the person commits an act or omission that amounts to gross negligence or willful and wanton misconduct.

(e) A petition for an order for protection must be:

- (1) verified or under oath under Trial Rule 11; and
- (2) issued on the forms adopted under subsection (a).

(f) If an order for protection is issued under this chapter, the clerk shall comply with IC 5-2-9."

Page 42, line 16, after "2007]:" insert "IC 31-9-2-23; IC 31-9-2-32; IC 31-9-2-33; IC 31-9-2-34; IC 31-9-2-35; IC 31-9-2-59; IC 31-9-2-81;".

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Page 42, line 20, delete "." and insert " ; IC 31-17-3."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 329 as printed February 23, 2007.)

HOY, Chair

Committee Vote: yeas 11, nays 1.

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